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# REVENUE CODE

OF THE

STATE OF ALABAMA



1908

PUBLISHED BY THE AUDITOR



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## CHAPTER 45.

### TAXATION.

	Code Section.
Article 1. Definition of terms-----	2060
2. Exemption from taxation-----	2061-2073
3. Subjects, rates, maturity and lien of taxes-----	2074-2093
4. Tax assessor; election, qual- ification and compensa- tion; deputies-----	2094-2101
5. Assessments; when and how made; duties of tax payer and assessor; filing lists and books of assess- ments and notice thereof; when assessor suspended-----	2102-2132
6. Assessments against rail- road and telegraph com- panies; State board of as- sessment, its powers, du- ties -----	2133-2145
7. Powers and duties of the court of county commis- sioners, and duties of judge of probate touching assessments; levy of coun- ty taxes -----	2146-2159
8. Tax collector; election, qualification and compen- sation; deputies -----	2160-2168
9. Collecting, reporting and paying over taxes; inter- est; escaped taxes; settle- ments; when collector sus- pended -----	2169-2209
10. State tax commission du- ties, term of office, com- pensation county tax com- missioners -----	2210-2267.

Ala. - Archives + Hist. Dept. 5

11. Sale of lands for payment  
of taxes; docket, notice,  
decree and conduct of  
sale; certificate and deed  
to purchaser -----2268-2299
12. Rights and remedies of pur-  
chasers of land at tax  
sale; statute of limita-  
tions -----2300-2312
13. Redemption of lands sold  
for taxes; sales by the  
State -----2313-2328
14. Cancelling erroneous sales  
and refunding purchase  
money -----2329-2331
15. Erroneous sales; appoint-  
ment of agent in county;  
record to be kept by audi-  
tor; how State lands dis-  
posed of -----2332-2339
16. To refund money paid for  
taxes not due; or errone-  
ously paid -----2340-2347
17. General duties of auditor  
in supervising the en-  
forcement of the revenue  
law -----2348-2360
18. License taxes; from whom  
and for what businesses  
required; prices; county  
levy -----2361-2363
19. Franchise taxes of common  
carriers -----2364-2390
20. Franchise taxes on foreign  
corporations -----2391-2400
21. Issue and expiration of li-  
censes; blanks and forms;  
records, payment and re-  
port; refunding license  
money -----2401-2412

TO PROBATE JUDGES, TAX COLLECTORS,  
TAX ASSESSORS, TAX COMMISSION-  
ERS AND REVENUE OFFICERS.

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I desire to call your attention to the following laws which become effective after May 1st, and now comprise the revenue laws of Alabama as fixed by the Code. All licenses collected after May 1st, and all revenues, from all sources, are governed by the provisions of these laws.

This pamphlet contains the revenue laws of the State and is furnished as provided by law for your guidance and information. Upon you all depends the enforcement of these laws, and your knowledge of same and diligence in their execution will greatly aid this department. I most earnestly urge your co-operation in the fair, just and equitable execution of same, for without your aid we would be helpless.

Permit me to call your attention to the time when reports are to be filed with the Auditor, a table of which you will find on next page and to urge you to be prompt in the discharge of your several duties as prescribed by law.

Very respectfully,

*Wm. W. Brandon.*

State Auditor.

Report should be filed with the Auditor monthly as follows:

Judges of Probate under section 2408 are required to forward report on last day of month, and if not complied with by the 10th, you are not entitled to commission.

Tax collectors under section 2200-2204 by the 3rd day of each month.

Report of Assessors through proper sources under section 2102.

## ARTICLE I.

### DEFINITION OF TERMS. 2060.

2060. (3906) (450) *Meaning of words and phrases.*—Whenever the terms mentioned in this section are employed in this chapter, they are employed in the following sense: Definition.

1. The term “real property” shall be held to mean and include not only land, city, town, and village lots, but also all things thereunto pertaining, and all structures and other things so annexed or attached thereto as to pass to a vendee by the conveyance of the land or lot. Real property.

2. The term “personal property” shall be held to mean and include all things, other than real property, which have any pecuniary value, and moneys, credits, and investments in any bonds, stocks, joint stock companies, or otherwise. Personal property.

3. The term “money,” or “moneys,” shall be held to mean and include gold, silver, and other coin, bills of exchange, bank bills, or other bills or notes authorized to be circulated as money, whether in possession, or on deposit subject to the draft of the depositor, or the person having the beneficial interest therein, on demand. Moneys.

4. The term “credit” includes every claim and demand for money, labor, merchandise, or other valuable things, and money and property of any kind secured by deed of trust, mortgage, or otherwise. Credits.

5. The word “person,” or “party,” or other word or words, importing the singular number, shall be held to include firms, companies, associations, and corporations; and all words in the plural number shall apply to single individuals, in all cases in which the spirit and intent of this chapter require it; and all words importing the masculine gender also shall apply to females; and all words importing the present tense shall also apply to the future. Person or party.

## ARTICLE II.

## Exemption from Taxation. 2061-2073.

As amended,  
March 4, 1903,  
p. 184; July  
17, 1907, p.  
483, § 1.

2061. (3907) (451) *Property and persons exempt.*—The following property and persons shall be exempt from taxation.

Exemptions.

1. All property belonging to the United States.
2. All bonds of the United States and of this State; all property, real and personal, of the State, and of the county and municipal corporations in this State; all cemeteries (but where cemeteries are owned, held, and lots sold therein for profit, the same shall not be exempt), and all lots in incorporated cities and towns, or within one mile of any city or town, to the extent of one acre, and all lots one mile or more distant from such cities or towns, to the extent of five acres, with the buildings thereon, when the same are owned and used exclusively for religious worship, educational, or purely charitable purposes; all school furniture and personal property used exclusively for school purposes; and all property, real or personal, to an extent not exceeding twenty-five thousand dollars in value, that may be used exclusively for agricultural or horticultural associations of a public character, or for the maintenance and education of young men preparing for the ministry in any church or religious association.

3. All the property of literary and scientific institutions and literary societies, when employed or used in the regular business of such institutions.

Libraries.

4. The libraries of ministers of the gospel, and all libraries other than those of a professional character, and all religious books kept for sale by ministers of the gospel and colporters.

Deaf, insane  
and blind.

5. All deaf mutes and insane and blind persons, and their property to the value of one thousand dollars.

Poll tax.

6. From poll tax, all persons permanently disabled, whose taxable property does not exceed five hundred dollars.



7. All family portraits.

8. The following property, to be selected by the head of each family, viz.: Household and kitchen furniture, not to exceed in value one hundred and fifty dollars; one yoke of oxen, one cart or wagon, two cows and calves, twenty head of stock hogs, ten head of sheep, all poultry, all cotton and other agricultural products which were raised or grown during the preceding year, and which shall remain in the hands of the producer thereof, and all manufactured articles, including pig iron, which shall remain in the hands of the manufacturers thereof, on the first day of October of any year immediately succeeding that in which they were raised or produced; provisions and supplies on hand for the current year, for the use of the family and the making of the crop; all wearing apparel; all looms and spinning-wheels, kept for use of the family; farming tools to the value of twenty-five dollars; tools and implements of mechanics to the value of twenty-five dollars; one sewing machine in each family, when the taxable property does not exceed two hundred and fifty dollars; provided, that no property or subject of taxation shall be exempted from taxation, nor shall any credit, abatement, or deduction be allowed therefrom, unless such property or subject of taxation is entered by the taxpayer upon his assessment list, and returned by him, under oath, to the tax assessor.

2062. (3908) *Exemption of cotton factories from county and municipal taxation.*—For the purpose of encouraging the building and operating of factories for the spinning of thread and yarns, and the weaving of cloth and other fabrics of cotton and wool in the State, and plants for the purpose of building ships, the court of county commissioners, or other courts having like jurisdiction, of any county, or the constituted authorities of any city or town in which it is proposed to locate such factories or such plants for the purpose of building ships, are authorized and empowered to remit the taxes assessed on such

Personal property.

Cotton factories, etc.

As amended,  
March 5, 1901,  
p. 211, § 2.



factories and such shipbuilding plants, and on all buildings, works, machinery and other equipment thereof, and on the lands upon which such shipbuilding plants and such factories or buildings are located, and also on all the capital stock of every such shipbuilding plant and factory, for all county or municipal purposes, for a period not exceeding five years from the date of the incorporation or organization of such factory or shipbuilding plant.

2063. (3909) *Application for such exemption; how made and granted.*—In order to obtain the benefits of the exemption from county and city taxation above provided, the person, firm or corporation owning or controlling such factory or shipbuilding plant must make application in writing to the court of county commissioners or court of like jurisdiction of the county, or to the constituted authorities of the city or town in which it is proposed to locate the same, giving the location thereof, the date of incorporation or organization of the corporation making the application, and praying for an order to be made by them, granting such person, firm, or corporation the exemption provided in the preceding section, which application, if granted, shall be entered on the records of their court, and an order made allowing such exemption, and designating the time when such exemption shall expire; provided, that all such property must be returned to the State for taxation, unless exempted therefrom.

How obtained.

As amended,  
March 5, 1901,  
p. 211, § 3.

Cotton and  
pig iron.

2064. *Cotton and other agricultural products and pig iron exempt.*—Cotton and other agricultural products and pig iron shall be exempt from taxation in the hands of the producer or the hands of the purchaser, purchasing the same for prompt shipment, and pig iron shall be exempt for twelve months after its production.

Feb. 23, 1899,  
p. 122, § 11;  
as amended,  
March 4, 1903,  
p. 184, § 1.

2065. *Property exempt listed.*—Cotton and other agricultural products and pig iron as exempted in the preceding section shall be listed on the tax assessment as exempt.

Listed.

Feb. 23, 1899,  
p. 122, § 2.

2066. *Cotton mills exempt for a term of years from taxation.*—When any person, co-<sup>Cotton mills</sup> partnership, association of individuals, or corporation incorporated under the laws of the State of Alabama, shall since the 13th day of February, 1902, have invested, expended, laid out and paid, or shall by the 13th day of February, 1907, invest, expend, lay out and pay, not less than fifty thousand dollars in money in the erection, building, and construction of cotton mills or factories in the State of Alabama, and the buildings, plants, works, machinery, appliances, appurtenances, proper or necessary for the practical operation of such cotton mills, or factories, such person, partnership, association, or corporation shall be entitled to claim and have exempt from assessment and collection for State, county, and municipal taxation, such cotton mills or factories, and the said proper or necessary buildings, plants, works, machinery, appliances, and appurtenances thereof, for the period of ten years only from the 13th day of February, 1902, and the same are exempt from State, county, and municipal taxes during said period of ten years, and all the capital stock of every such cotton mill and factory shall likewise be exempted from all such taxation during such period of ten years, and this section shall also apply to additions costing fifty thousand dollars or more, made during five years from said 13th day of February, 1902, to cotton mills then existing in Alabama; but nothing in this section shall be construed to exempt from taxation the lands on which such cotton mills or factories are erected.

Oct. 9, 1903,  
p. 565, § 1.

2067. *Shipbuilding plants exempt for ten years.*—All shipbuilding plants which shall have been erected and put in operation in this State within five years from March 5, 1901, and in the erection, construction, and equipment of which not less than five hundred thousand dollars shall have been bona fide expended in that time, together with the buildings, works, machinery, appliances, and appurtenances thereof, and all ad-<sup>Ship building</sup>

March 5, 1901,  
p. 213, § 5.

ditions necessary or proper for its practical operation made to any such plant, its buildings, works, machinery, appliances, and appurtenances within such period of five years, shall be exempt from State, county, municipal, and other taxation during the period of ten years from March 5, 1901; provided, the person or partnership, or association or corporation owning any such plant shall file in the office of the probate judge of the county in which the same is located, a written declaration, under oath, stating where such plant is erected, the name of the owner thereof, the amount intended to be expended in the erection and equipment thereof; that the erection thereof has been bona fide commenced, and when such erection was commenced; such statement shall be so filed within six months from the time that such erection was commenced. And all the capital stock of any such shipbuilding plant exempted from taxation by the provisions of this section shall likewise be exempted from all State, county, municipal, and other taxation during said period of ten years; but this section shall not be construed to exempt from such taxation any lands upon which any such plant as is exempted by the provisions hereof is erected, or which may be used in connection therewith, nor any buildings or other improvements upon such lands at the time they are acquired for the purpose of such plant, the value of which pre-existing buildings or improvements shall continue to be assessed for taxation during such period of ten years to the owner thereof during such time.

Exemption  
shall cease.

March 5, 1901,  
p. 213, § 5.

2068. *When exemptions shall cease.*—The exemption granted as to any cotton mill, factory, or shipbuilding plant becoming entitled to its enjoyment, and as to the capital stock thereof, shall cease whenever the operation of such mill, factory, or plant for the purposes of its construction shall be abandoned.

2069. *Water powers exempt from taxation.*—To encourage the development of the various unused water powers of this State, the plants, and

the property, business, and franchises, necessary for the production, transformation, and distribution of electric current, of any person, or firm, or of any corporation, organized for the purpose of developing hydro-electric power for the use of the public, shall in consideration of the benefits to be derived by the public from the development and operation of such properties and plants, be exempt from State, county, and municipal property and privilege taxation of all description, either under general or local laws, until ten years after the beginning of the construction of any such plant. Nothing in this section shall be so construed as to exempt from taxation the lands upon which such plants are erected; nor shall this section be so construed as to exempt from taxation any of the property, business, or franchises of any hydro-electric power plant already developed.

Water power.

July 27, 1907,  
p. 520, § 5.

2070. *Calcium cyanamid (lime nitrogen) manufactories exempt from taxation.*—To encourage the manufacture of calcium cyanamid (lime nitrogen) in this State, the plants, and the property and business necessary for the manufacture of the same, of any person, or firm, or of any corporation organized for the purpose of manufacturing calcium cyanamid (lime nitrogen), shall, in consideration of the benefit to be derived by the public from the manufacture of the same, be exempt from State, county, and municipal property and privilege taxation of all description, either under general or local laws, until ten years after the beginning of the construction of any such plant. Nothing in this section shall be so construed as to exempt from taxation lands upon which such plants are erected.

Calcium, cyanamid, etc.

July 27, 1907,  
p. 519, § 1.

2071. *Alabama Agricultural Association exempt.*—No license or taxes of any character shall be required by the State, county, or municipality from the Alabama Agricultural Association, or from those who conduct business under con-

Agricultural association.

Aug. 6, 1907,  
p. 561, § 1.



tract with it on its grounds during the time its annual fair is actually in progress.

Alabama Fair. 2072. *Alabama State Fair and Exhibit Association and persons conducting business with, exempt.*—The Alabama State Fair and Exhibit Association, and all persons, firms, or corporations who may conduct business with said association on its fair grounds in Jefferson county during the annual fairs of said association, are exempt from the payment of all State, county, and municipal taxes and licenses.

Aug. 2, 1907,  
p. 541, § 1.

Patented prop- 2073. *Patented property or property devoted erty. to manufacture of patented articles, and stock of corporations for such purposes, exempt.*—Any person, firm, or corporation who has heretofore patented and owns exclusively, or who has heretofore secured and owns exclusively, or shall hereafter patent and own exclusively, or shall hereafter secure and own exclusively, the patent right on any articles designed for the purpose of protecting human life and property, which article has not heretofore been manufactured for sale, shall be exempt for a period of ten years from August 9, 1907, from taxation upon all of its property which is devoted exclusively to the manufacture of such article and the manufactured products thereof, and patent rights, and the stock of the stockholders of such corporation shall be exempt from taxation for said period of ten years.

Aug. 9, 1907,  
p. 785, § 1.

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### ARTICLE III.

Poll Tax; Subjects, Rates, Maturity and Lien of Taxes. 2074-2093.

2074. (3910) (452) *Poll tax.*—There may be collected, as hereinafter provided, from every male inhabitant in this State, over the age of twenty-one years, and under the age of forty-five years, not exempt by law, the sum of one

Poll tax.

dollar and fifty cents, as poll tax, which shall be applied exclusively in aid of the public school fund in the counties in which it is levied and collected.

2075. *Forms of poll tax receipts and blanks furnished by auditor to tax collector.*—The State auditor, with the approval of the governor, shall prepare and have printed suitable forms of poll tax receipts with appropriate blank for name and year for which paid, and date of payment, and before the first day of October in each year, shall furnish to the several tax collectors blank receipts, countersigned by him sufficient for the probable wants of their respective counties, taking their receipts for the same. Each blank receipt for such poll tax shall have a stub attached thereto, on which shall be printed such matter as the auditor may prescribe; the number of such receipts and appropriate blank spaces to be filled in by the tax collector, showing by whom paid and when and for what year, and shall take and file in his office a proper receipt from the tax collector for the poll tax receipts so furnished him.

Poll tax  
receipts.

Feb. 12, 1903,  
p. 42, § 2.

2076. *Stubs and receipts.*—Upon the payment to him by any such person of such poll tax as such person shall offer to pay, the tax collector shall, before detaching said receipt from the stub, fill up the blank spaces in the stub to correspond in all respects with the receipts as given by him to such taxpayer, and sign his name to such receipt.

Stubs and re-  
ceipts.

Feb. 12, 1903,  
p. 42, § 2.

2077. *Collectors account to auditor.*—The tax collector shall by the 15th day of February return to the auditor all unused receipts and stubs so delivered to him, or account to the State auditor for all unused receipts and stubs, and shall also return to the auditor the stubs of all receipts issued by him; after the State auditor shall have charged the collector with all poll taxes collected by him and checked the same as shown by the said stubs, he shall return said stub books to the judge of probate of such county in which said poll taxes were collected for record and file in his office.

Stubs re-  
turned to au-  
ditor.

March 4, 1907,  
p. 258, \* 1.

Time receipt  
may be issued. 2078. *Time when receipts may be given.*—After the first day of February, and before the first day of the next October, the tax collector shall have no authority to receive or receipt for poll taxes due by any person.

Feb. 12, 1903,  
p. 42, § 4.

Lists.

Oct. 6, 1903,  
p. 394, § 1.

2079. *Alphabetical list of persons who have paid poll taxes filed in probate court.*—During the months of February or March in each year the tax collectors of each county shall prepare, and on or before the first day of April following shall file, in the office of the judge of probate of their respective counties, an alphabetical list, by beats, containing the names of all persons in said counties, respectively, who have, on or prior to the first day of February of the current year, paid a poll tax. Said names shall be entered in a suitable book for that purpose provided at the expense of the county.

Compensation.

2080. *Compensation of tax collectors for making list.*—For the service required in the preceding section, when performed, the several tax collectors shall be entitled to the sum of two and one-half cents for each name so entered, to be paid out of the general fund of their respective counties on the warrant of the judge of probate.

Rate.

March 4, 1903,  
p. 148, § 1.

2081. *Rate of State taxation.*—The rate of taxation for State purposes in this State shall be sixty-five one-hundredths of one per cent per annum on the value of the taxable property within this State.

Amended,  
Mar. 4, 193,  
p. 185, Consti-  
tution 1901,  
p. 260.

2082. (3911) (453) *Subjects, objects, and rates of taxation.*—There is hereby levied for the purposes named, upon the property hereinafter named, in lieu of all taxes heretofore levied, annual taxes as follows, to wit:

Subject, object  
and rates.

(a) For the maintenance of the public schools of the State, thirty cents on each hundred dollars of the assessed valuation of taxable property;

(b) "For the relief of needy confederate soldiers and sailors, resident citizens of Alabama, and their widows," to be separately reported by assessors and collectors and set apart in the



treasury, ten cents on each hundred dollars of the assessed valuation of taxable property;

(c) For the use of the State and to raise revenue therefor, twenty-five cents on each hundred dollars of the assessed valuation of taxable property.

1. Every piece, parcel, tract, or lot of land in this State, including therein all things pertaining to such land, and all structures and other things so annexed or attached thereto, as to pass to a vendee by conveyance of such land; and every separate or special interest in any land, such as mineral, timber, or other interest, when such interest is owned by a person other than the owner of the surface or soil.

2. All wharves and wharf-boats, landings and warehouses, where charges are made, cotton-pickeries, cottonseed-oil mills, compresses, grain elevators, tollbridges, ferries, and turnpikes and all passes, channels, or canals, where tolls are charged, and street railroads, printing presses, and materials.

3. All steamboats, vessels, and water-craft of every name and kind, excepting such as are engaged in foreign commerce, to be assessed and collected at the port in this State where such steamboats, vessels, and water-craft are enrolled, or in the county wherein the owner or owners, or those owning the largest aggregate amount of stock in value thereof, may reside, and if such steamboat, vessel, or water-craft is owned by a corporation, then in that county where the principal office of said corporation is situated, or if not enrolled at any port under the laws of the United States, then at any place or landing where the same may be found; all transfer boats, steamboats, or barges used by any railroad in transferring cars and passengers, must be listed and taxed in the county or counties where used; and the tax on such steamboats, vessels, and water-craft shall be due and collectible at the port where the same are enrolled, unless paid elsewhere, as provided herein, and the receipt therefor exhibited upon demand to the officer

whose duty it is to collect the same at said such port.

As amended,  
Mar. 4, 1903,  
p. 184.

4. All stocks of goods, wares, merchandise, the assessment to be on the average amount on hand during the preceding year, but the amount so assessed shall in no case be less than the capital actually employed in the business, and this shall include all goods, wares, and merchandise kept on plantations, or elsewhere, or by railroad companies or manufacturing companies, or other associations, companies, or persons for sale or to be dealt out to laborers or employes for profit or on account of their wages, and shall include all goods, wares, and merchandise offered for sale by any person commencing business subsequently to the first day of October of a current year, but in such case the tax shall be apportioned according to the date at which the business shall be commenced, so that if commenced after the first day of January, the tax shall be three-fourths of the tax for the whole year; if commenced after the first day of April, the tax shall be one-half of the tax for the whole year; provided, that the assessment herein provided shall not include products raised on the farms in hands of the original producers. If the person, association, or corporation, carrying on such business shall fail to make return of the amount of stock as provided by law, or if the assessor is not satisfied with the return made, the assessor, in order to make proper assessment, may examine the insurance effected by such person, association, or corporation upon the stock so to be assessed, and shall have a right to demand a copy of the last inventory made of such stock of goods, and may also by inquiry of persons believed to have knowledge of the subjects inform himself of the probable average amount of such stock, and from such information he may assess the same upon the best judgment he can form.

As amended,  
March 4, 1903,  
p. 186.

5. All household furniture, libraries, jewelry, plate and silverware, ornaments and articles of taste, pianos and other musical instruments, paintings, clocks, gold, silver, and other watches,

and gold and other safety chains; all wagons and other vehicles; all motor cars, automobiles, and bicycles; all typewriters, all cash registers, all phonographs, and all machines of like character; all iron safes; all store fixtures; all office furniture and fixtures; all mechanical tools and farming implements; all dirk and bowie knives, swords, canes, pistols, and guns; all cattle, horses, mules, studs, jacks, and jennets; all hogs, sheep, and goats.

6. All money hoarded, whether in the custody of the owner or on deposit in bank, or elsewhere in this State, or in another State, subject to check, draft, or order; or in any safety deposit box, safe, or vault, or elsewhere.

7. A. No mortgage, deed of trust, contract of conditional sales, or other instruments in the nature of a mortgage, which is given to secure the

payment of any debt which such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, shall be executed so as to convey real property or any interest in real property or personal property which is situated within this State, shall be received for record unless the following privilege taxes shall have been paid upon such instrument before the same shall be offered for record, to wit: Upon all such instruments which are executed to secure any indebtedness which shall not exceed one hundred dollars, there shall be paid the sum of fifteen cents, and upon all such instruments, which shall be executed to secure an indebtedness of more than one hundred dollars there shall be paid the sum of fifteen cents for each one hundred dollars of said indebtedness or portion thereof, which is secured by said mortgage, deed of trust, contract of condition of sale, or other instrument of like character, to be paid for by the lender.

Money hoarded.  
Mortgages.  
As amended,  
March 7, 1907,  
p. 403, § 1.

B. Upon filing for record of such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, the person to whom the same shall be made payable, or his agent, shall present the said instrument to the

judge of probate of the county within which the property conveyed thereby or any part thereof is situated, and shall pay to the probate judge the amount of the tax required under this subdivision to be paid upon such mortgage, deed of trust, contract of conditional sale, or other instrument of like character, and upon such payment the probate judge or his clerk shall certify on said mortgage, deed of trust, contract of conditional sale, or other instrument of like character, the fact that the said tax has been paid, and when so certified by the probate judge or his clerk, such instrument shall be admitted to record in any county wherein any of the property mentioned in said instrument is situated, without the payment of any further tax thereon, except the fee of the probate judge for recording such instrument, and such certificate of the probate judge shall be recorded by the said probate judge when such instrument is recorded. The tax herein provided for shall be paid upon all contracts for the sale of real or personal property, whether the same be in the nature of a conditional sale or a bond for title, and no such contract shall be received for record until such tax shall have been paid.

C. When the time for the payment of the indebtedness secured by any such mortgage, deed of trust, contract of conditional sale, or other instrument in the nature of a mortgage is extended or renewed, and the extension or renewal contract is offered for record, the tax required in this subdivision shall be paid on the amount of the indebtedness so extended or renewed; and the same shall be governed in all respects by the provisions of this subdivision.

D. There shall be no ad valorem tax collected upon any such instrument, or the debts secured thereby, which shall have paid the tax prescribed by this subdivision, either state, county or municipal.

E. Of the taxes collected by the probate judge under this subdivision, there shall be paid



to the county treasurer of the county in which such taxes are collected, one-third of the amount collected by him, to be accounted for by him, and the remaining two-thirds of said amount collected to the State treasurer. The probate judge shall receive five per cent of the amount collected by him as compensation for his services in collecting said money and certifying said instrument, said five per cent to be retained by him out of the moneys collected by him under this subdivision; but when the property described in said instrument is situated in different counties within this state, then the probate judge who collects said taxes shall pay over the amount due the county treasurer to the county treasurer of each of the different counties in which said property is situated an amount of said taxes that will be in proportion to the value of the property therein as compared with the value of the whole property within this State described in said instrument.

G. If any part of the property embraced or described in any instrument which is required under this subdivision to pay a record privilege tax is located without this state, the indebtedness upon which the tax shall be paid for the privilege of recording such instrument shall be that proportion of the indebtedness secured by the instrument which the value of the property located in this state bears to the value of the whole property described in the instrument. The state board of compromise may ascertain the value of the whole property, and of that part of it which is located within this state, for the purpose of ascertaining the amount of the indebtedness upon which said tax shall be paid. And the value of that part of the property located within this state, and the amount of the indebtedness upon which such tax shall be paid, shall be ascertained in the following manner: First, the owner of any such instrument, or his agent or attorney, may petition the state board of compromise to ascertain the value of the whole property, and

of that part of it which is located within this state, and the amount of the indebtedness upon which such tax shall be paid, and said board of compromise after hearing such evidence as may be offered, shall fix and determine the value of that part of the property located within this State and the amount of the indebtedness upon which the tax shall be paid, and shall indorse its findings on such instrument, and upon the presentation of said instrument, with such indorsements, to the probate judge of the county in which any part of the property is located, such indorsement, upon payment of the tax upon the amount of such indebtedness as so ascertained by said board of compromise and of the recording fees of the probate judge; or, second, the owner of any such instrument, or his agent or attorney, may have such instrument recorded by paying to the probate judge of the county in which the instrument is offered for record, the privilege tax on the entire amount of the indebtedness secured by such instrument; and may thereupon present his petition to the State board of compromise within thirty days after said instrument is recorded, and it shall be the duty of such board to ascertain the value of the whole property and of that part of it located within this State, and to fix and determine the amount of the indebtedness upon which the tax shall be paid, and said board shall thereupon ascertain such valuation and fix and determine such indebtedness, and shall order the probate judge to refund the excess of privilege tax collected by him, and the probate judge shall comply with such order; and the tax paid on the entire amount of such indebtedness shall be held by the probate judge until the board of compromise determines the amount of the indebtedness upon which such tax shall be paid.

H. Any renewal or extension of the time for payment of the indebtedness secured by any such instrument shall be governed in all respects by the provisions of this section.

I. All money lent, solvent credits, or credits of value, except such as are secured by mortgage, deed of trust, or written contract of conditional sale, upon which a tax imposed by law has been paid.

J. All money employed in the business of advancing or lending on any kind of chattels, choses in action, or personal property, or used in buying or discounting notes, bonds, or bills of exchange.

K. All moneyed capital used in any business, which comes in competition with the business of national banks.

8. Every share of any incorporated bank or banking association incorporated under the laws of this State, or any other state, or of the United States, to be assessed and collected in the county, city, town, or village where any such bank is located, and to be assessed at its actual market value to the person in whose name such share stands on the books of such bank, and not to the bank or corporation. The president or cashier of every such bank or banking association shall make out and return under oath to the assessor of the county in which the bank is located, a list showing the total number of shares of the capital stock of such bank, the full name and residence of every shareholder as far as known, the actual market value of such shares and the par value thereof, the date of the last sale of stock in such bank, with the names of the seller and purchaser thereof, the price paid for same, the annual dividend declared upon the stock of such bank for the last three years, the value of the shares as shown by the books of the corporation and by the last report of the officers to the shareholders, the amount of the surplus and the amount of the undivided profits not included in the surplus, and such president and cashier shall, at the same time, return to the assessor of the county a sworn statement of all real estate owned by the bank situated in this State, and the value thereof as assessed for taxation the same year, and thereupon the assessor shall, after passing upon such

Shares of  
banks.

As amended,  
March 7, 1907,  
p. 403, § 2.



assessment, deduct from the amount or sum at which the whole of the shares are assessed the amount or sum at which the real estate situated in the State and belonging to such bank is assessed for taxation; and the residue of values remaining after such deduction shall be the assessed value of the whole of such shares, and such residue divided by the whole number of shares, shall constitute the value of each share for taxation, and the bank shall pay for the shareholder the tax assessed against such shares, and no other deduction shall be made from the value of such shares except the value of the real estate situated in this State, and owned by said bank as assessed for taxation the same year. And all tax assessors, courts of county commissioners, boards of revenue, and all other courts, are prohibited from making any deductions from the value of such shares, except such assessed values of the real estate owned by such banks. It is the intent and meaning of this subdivision that the real estate of every such bank shall be assessed for taxation against the bank as other real estate in this State is assessed to the owners thereof, and that the bank shall pay the taxes thereon; and the shares shall be assessed for taxation against the shareholders at their actual market value after deducting therefrom the assessed value of the real estate of the bank, and that the bank shall pay for the shareholders respectively the tax so assessed against their shares. In arriving at the market value of the shares, there must be considered everything which gives them value, such as the franchise, the authorized capital, and the assets of the bank, the real and personal property, the reserve fund and surplus, the undivided profits, and all other interests of the shareholders that would pass to a purchaser on a transfer of his stock; and except as herein expressly provided, no separate tax shall be levied upon these elements of value, or any of them. It shall be no ground of objection to such assessment of shares that it is entered upon the assessment book in the corporate name of the bank.

9. Every share of any corporation except banks or banking associations and building and loan associations shall be assessed and collected in the county wherein such corporation has its home or chief office in this State, and shall be assessed at its actual market value, to the person in whose name such shares stand on the books of the corporation, and not to the corporation. The president or chief officer of every such corporation shall make out and return under oath to the assessor of the county in which the chief or home office of the corporation is located, a list showing the total number of such shares of capital stock of such corporation and the par value thereof, and the full name and residence of each shareholder as far as known, the actual market value of such shares and the par value thereof, the date of the last sale of stock in such corporation, with the name of the seller, and the purchaser and the price paid for the same, and the annual dividend declared on the stock of such corporation for the last three years, the value of the shares as shown by the books of the corporation, and by the last report of the officers to the shareholders, the amount of the surplus; and the amount of the undivided profits not included in the surplus, and such president or chief officer shall at the same time return to the assessor a sworn statement of all taxable property, real and personal, owned by such corporation, situated in the State, and the value thereof as returned to the tax assessor for taxation the same year, and the assessor, after passing upon such assessments, shall deduct from the aggregate amount or sum at which the whole of the shares are assessed the aggregate amount or sum at which the real and person property of the corporation is returned to the tax assessors for taxation, owned by such corporation, and the residue of value remaining after such deduction shall be the assessed value of the whole of such shares, and such residue, divided by the whole number of shares, shall constitute the value of each share for taxation, and the corporation shall pay for the

Shares of corporations.  
As amended,  
March 7, 1907,  
p. 403, § 3.

shareholders the tax assessed against his shares, and the amount so paid for any shareholder shall be a lien on any interest which such shareholder may have in any property owned by the corporation. If the aggregate value of the shares does not exceed the aggregate value of the real and personal property of the corporation as returned to the tax assessor for taxation, then no tax shall be demanded or collected on the shares; and no other deduction shall be made from the aggregate amount or sum at which the real and personal property of the corporation is returned to the tax assessor for taxation than is herein specifically provided for. It shall be no ground for objection to such assessment of shares that the same is entered upon the assessment books in the name of the corporation. In arriving at the value of the shares of stock of a corporation organized under the laws of Alabama for the purpose of conducting a fire insurance business for assessment, there shall be deducted from the value of such shares, in addition to the assessed values of its property, the amount of its bonds of the State of Alabama, any county or municipality thereof, and of the United States, held by such fire insurance corporation at the time of such assessment, which was held during all the six months preceding such assessment; provided no shareholder of any corporation who shall pay a tax on franchise or intangible property shall be liable to the taxes specified in this subdivision as to the same property.

Water companies.

10. All real and personal property of water companies, including the pumping stations, reservoirs, stand-pipes, towers, pipe lines, gates, valves, tunnels, canals, and dams used in the business of supplying water to consumers for pay; all real and personal property of electric light and power and gaslight companies, including all machinery, engines, dynamos, wires, poles, pipe lines, and appliances of every nature and description used in connection therewith; all the real and personal property of every furnace, rolling mill, mine, quarry, or manufacturing establish-

ment, including all machinery, engines, and appliances of every nature used in the business; all dams across rivers and creeks.

11. All investments in bonds, except bonds of the United States and of this State, and such other bonds as are not by law taxable; but all capital invested in bonds or currency which are exempt from taxation shall be liable to be taxed under this section, should such capital, at any time during the year, be reconverted into money, bonds, or property which is taxable, unless it is made to appear that the money, bonds, or property into which such reconversion may be made has been assessed for taxes for such year. Investment in bonds.

12. The roadbed, track, and other property, real and personal, of railroads, and all tram-roads, pole-roads, canals, ditches, and channels used for transporting lumber, timber, logs, or other valuable commodities of commerce, which are not taxed as improvements on the land, or plant, or main property of the owner of such tramroads, pole-roads, canals, ditches, or channels. Roadbed, etc., of railroad.

13. All dividends declared or earned, and not divided, by corporations doing business in this State. Dividends

14. All other property, real and personal, not otherwise specified herein, including cotton, pig-iron, manufactured goods, and other things of value. Property not otherwise specified.

2083. *Enumeration of subjects of taxation not to interfere with other exemptions from taxation.*

—The enumeration of subjects of taxation in the preceding section, as amended, shall not be construed so as to interfere in any way with the exemptions from taxation provided by law. Sept. 30, 1903, p. 295.

2084. (3912) (454) *Other subjects of taxation and rates thereon.*—There shall also be assessed by the assessor in each county for taxation the following subjects at the following rates: Rate

1. On the gross amount of sales at auction, made in or during the tax year preceding the assessment of goods, wares, and merchandise owned by nonresidents, each auctioneer shall be assess- Auctioneer



ed and shall pay a tax of one-fourth of one per cent; and a like tax on all sales made by him of property owned by citizens of this State, which have been imported into this State and sold at auction before the same has been assessed for taxes as other property; but on sales of goods, wares, and merchandise and fruits, by cargo, the rate of taxation shall be one-eighth of one per cent.

#### Commission

As amended,  
March 7, 1907,  
p. 403,

2. On the gross amount of commission, or sums charged and received, during each tax year, by any factor, broker, commission merchant, auctioneer, or dealer in any other kind of property, in buying or selling, or for any other act in the course of their business, and for a commission or compensation, by bale, sack, package, article, or otherwise, and on the gross receipts, during each tax year, of all grain elevators, river landings, wharves, wharf boats, stock-yards, whether attached to livery stables or otherwise, at the same rate that property is taxed, but this shall not apply to banks and building and loan associations otherwise taxed.

3. On the gross income of all gasworks, waterworks, electric light companies, telephone companies, street railways, toll bridges, and ferries, and also all canals, ditches, channels, passes, tram roads, and poll roads used for transporting timber or other valuable commodities or commerce at the rate that property is taxed; provided, that no corporation which pays a tax on franchises or intangible property shall be liable for the taxes specified in this subdivision, as to the same property or rights.

#### Telegraph and telephone Co.

As amended,  
March 5, 1901,  
p. 216,

2085. (3913) *Telegraph and telephone companies to pay privilege tax to State treasurer.*—Each telegraph or long-distance telephone company doing business between points wholly within this State, and without reference to its interstate commerce or governmental business, shall pay, in advance, on the first day of January of each year, to the State treasurer, a privilege tax based on the mileage of the telegraph or long-dist-

ance telephone line operated by it in this State, as follows: Each telegraph company whose lines within the State do not exceed one hundred and fifty miles, shall pay at the rate of one dollar per mile; each telegraph company whose lines within the State exceed one hundred and fifty miles, shall pay five hundred dollars, together with one dollar for each mile of such lines; and each long-distance telephone company whose lines within the State do not exceed two hundred miles, shall pay at the rate of fifty cents per mile, and each long-distance telephone company whose lines within the State exceed two hundred miles, shall pay two hundred and fifty dollars; and no telegraph company which has paid the privilege tax herein required shall be liable to pay any additional privilege or other tax in this State, except licenses required by cities and towns, and except upon its real estate, fixtures, and other local property, which shall be subject to taxation as other property in the State; and no long-distance telephone company which has paid the privilege tax herein required shall be liable to pay any additional privilege tax in this State, except licenses required by cities and towns, but the real estate, fixtures, and other local property of long-distance telephone companies shall be subject to taxation as other property in this State. The payment of such privilege tax to the State treasurer shall be accompanied by a sworn report to the State auditor, showing the number of miles of telegraph or long-distance telephone lines operated by such company in this State; and in default of the payment of such tax or the making of such report for sixty days after the first day of January, a penalty of double the amount of such tax shall be imposed upon and collected of such defaulting company.

2086. (3914) *Express companies to pay privilege tax to State treasurer.*—There shall be levied and collected from every express company doing an express business between points wholly within this State, and without reference to its in-

Express companies.

As amended,  
March 4, 1903,  
p. 189.  
(r. c. c.)

terstate business, in this State, whether incorporated under the laws of this State or any other State, or whether incorporated at all, or not, a license or privilege tax of four thousand dollars, which shall be annually paid to the treasurer of said State by said company on or before the fifteenth day of January of each year. In addition to said amount paid to the State, as aforesaid, for State purposes, there may be levied and collected by the several cities of the State from said express company or companies, for the privilege of doing business within the municipal limits of said cities, a privilege or license tax to be computed and based on the population of said cities, as fixed by the federal census of 1900, as follows, to wit:

In municipalities having a population of five hundred people, or less than this number, two dollars and fifty cents per annum.

In municipalities having a population of five hundred or over, and not exceeding one thousand, fifteen dollars per annum.

In municipalities having a population of one thousand and not exceeding two thousand, twenty-five dollars per annum.

In municipalities having a population of two thousand and not exceeding three thousand, thirty-five dollars per annum.

In municipalities having a population of three thousand and not exceeding four thousand, forty-five dollars per annum.

In municipalities having a population of four thousand and not exceeding five thousand, fifty dollars per annum.

In municipalities having a population of five thousand and not exceeding ten thousand, seventy-five dollars per annum.

In municipalities having a population of ten thousand and not exceeding fifteen thousand, one hundred dollars per annum.

In municipalities having a population of fifteen thousand and not exceeding twenty thousand, one hundred and twenty-five dollars per annum.



In municipalities having a population of twenty thousand and not exceeding twenty-five thousand, one hundred and seventy-five dollars per annum.

In municipalities having a population of twenty-five thousand and not exceeding thirty thousand, two hundred and fifty dollars per annum.

In municipalities having a population of over thirty thousand, five hundred dollars per annum.

The license or privilege taxes above provided which shall be paid to the State and several cities, according to population as above said, shall be in lieu of all other license or privilege taxes required of said express companies in said State, by any authority thereof, and shall be in lieu of all other taxes of whatever nature except an ad valorem tax upon the tangible and intangible property of said company located in said State.

2087. (3915) *Sleeping car companies to pay privilege license and franchise tax to State treasurer.*—Each sleeping car company and each person, firm, or corporation engaged in the business of operating or running sleeping cars (except railroad companies operating their own sleeping cars), and doing business in this State, shall each pay in advance on the first day of January of each year to the State treasurer the sum of three thousand dollars as and for license privilege and franchise taxes, and in full satisfaction for all taxes imposed on the sleeping car business of such person or corporation, and upon the property and intangible assets used in such business and no company or person required in this section to pay said taxes to the State shall be required by any municipality in which it does business by agent to pay any sum as a license or privilege tax greater than ten dollars for any such municipality which may be authorized by law to collect a privilege or license tax from such company or persons, provided said sum shall also be paid for the year 1907.

Sleeping car companies.

As amended,  
Aug. 2, 1907,  
p. 501.

2088. (3916) *Building and loan associations to pay privilege and property tax.*—Each build-

Building and Loan Asso.

As amended,  
March 5, 1901,  
p. 218.

ing and loan association organized under the laws of this State, or any other State or county, doing business in this State, shall pay in advance on the first day of each year, to the State treasurer, a privilege tax of one dollar for each one thousand dollars of the first one hundred thousand dollars paid in on its capital stock; and fifty cents for each one thousand dollars paid in on its capital stock over one hundred thousand dollars, but shall not be required to pay taxes upon its mortgages on real estate. And every such association, foreign or domestic, shall also be assessed for taxation and shall pay taxes upon its office furniture and real estate in this State.

Insurance.

2089. (3917) *Insurance companies to pay tax on gross receipts.*—Every insurance company, domestic or foreign, doing business in this State, which files the statement as required by section 4556 of this Code, shall at the same time pay to the insurance commissioner the following amounts, that is to say: Each fire insurance company shall pay one and one-half dollars on each one hundred dollars of the gross premiums received by it in this State, and every other insurance company shall pay two dollars on each one hundred dollars of the gross premiums so received in this State during the year ending on the thirty-first of December next preceding as a tax for doing business in this State, and no credit or deduction of any kind shall be allowed or made on account of the cost of reinsurance taken by such company or any company not authorized to do business in this State. But the provisions of this section do not apply to any secret or benevolent society, such as Masons, Odd Fellows, Knights of Pythias, Knights of Honor, Ancient Order of United Workmen, or like orders. Any insurance company failing or refusing to make returns as required by law, or failing or refusing to pay the tax herein levied, shall forever be debarred from doing business in this State, and shall be liable to a penalty in double the amount of such tax.

2090. (3918) (456) *When foreign insurance company considered as doing business in State; taxes against.*—When any person shall do or perform any of the acts, the doing or performing of which by him for any insurance company not organized under, or incorporated by, the laws of this State, renders him the agent of such company under the provisions of this Code, shall be held to be doing business in this State, and shall be subject to taxation for State, county, and municipal purposes, in this State; and such person so doing or performing any of such acts shall be personally liable for such taxes. Foreign insurance companies.

2091. (3919) (457) *When taxes become due, and when delinquent.*—All taxes, unless otherwise directed, shall become due and payable on the first day of October in each year, and shall become delinquent if not paid before the first day of January succeeding, except in cases when parties are about to remove from the county. Taxes when due.

2092. (3920) (458) *Property brought into State after first of October; when taxable.*—All property brought into the State after the first day of October, and before the assessor has completed his assessment, except property that may be brought into the State by a bona fide citizen of the State, purchased with money held on the first day of October, which money has been assessed for taxation that year, shall be subject to taxation the same as if it had been held or owned in the State on the first day of October. Property brought in State after first Oct.

2093. (3921) (459) *Lien of State and county for taxes.*—From and after the first day of October of each year, the State shall have a prior lien upon each and every piece or parcel of property, real or personal, for the payment of the taxes which may be assessed against the owner, or upon such property, during that year, for the use of the State; and the county shall have a like lien thereon for the payment of the taxes which may be assessed against such owner, or upon such Lien of State and county.

property, during that year, for the use of the county; and these liens shall exist as to all lands bid in by the State at tax sales for the annual taxes thereafter assessed on the value of the property so purchased, in the event of the tax title failing.

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#### ARTICLE IV.

Tax Assessor; Election, Qualification and Compensation; Deputies. 2094-2101.

Tax assessor. 2094. (3922) (460) *Tax assessor; election and term of office.*—There shall be elected, at the time, in the manner, and for the term provided by law, a tax assessor for each county in the State, who shall perform such duties as are, or may be, prescribed by law, and whose term of office shall begin on the first day of August, next after his election.

As amended,  
Oct. 1, 1903,  
p. 370.

Bond. 2095. (3923) (461) *Official bond.*—Before entering upon the discharge of the duties of his office, the tax assessor must execute in duplicate a bond in the sum of two thousand dollars, payable to the State of Alabama, with sufficient sureties, to be approved by the judge of probate of his county, and conditioned faithfully to discharge the duties of his office which are, or may be, required by law during the time he continues therein, or discharges any of the duties thereof. One of such duplicates must be filed and recorded in the office of the judge of probate, and the other must be filed in the office of the State auditor, on or before July first, next after his election.

Oath of office. 2096. (3924) (462) *Oath of office.*—He shall also, before entering upon the discharge of the duties of his office, file in office of the judge of probate of his county an oath in writing that he will faithfully and diligently discharge all the duties which are, or may be, imposed upon him by law; and such oath must also be recorded.



2097. (3925) *Commission of tax assessor.*—

The tax assessor shall be entitled to receive from the tax collector out of the first moneys collected for the State, giving him duplicate receipts therefor, one of which receipts shall be forwarded to the State auditor by the tax collector, the following commissions on the State taxes, whether general or special, assessed by him (but not on each separately), to wit: In counties where the State taxes assessed do not exceed twelve thousand dollars, the rate of commission shall be eight per cent on the first thousand, four per cent on the second thousand, and two per cent on the remainder. In counties where the State taxes assessed exceed twelve thousand dollars, the commission shall be the same up to twelve thousand dollars, and on all above twelve thousand dollars, one and one-half per cent up to sixty thousand dollars and one per cent on the remainder. He shall also be entitled to receive from the tax collector the same rate of commissions on the amount of county taxes, whether general or special (but not on each separately), regularly assessed, carried up or extended on the assessment book, giving duplicate receipts to the tax collector for all amounts so paid him. He shall receive five per cent of the amount of general State taxes upon property assessed by him which has escaped taxation in the previous year, such previous assessment not having been made while he was tax assessor. <sup>Commission not allowed.</sup>

2098. (3926) *No commissions on erroneous assessments.*—He shall not receive commissions on errors made in assessments, on abatements or deductions from assessments allowed to the taxpayer, nor shall he, after the abstract book has been turned over to the tax collector, receive commissions on any assessment to which an objection by the taxpayer, regularly entered, may then be pending, until such objection has been disposed of and the proper assessment ascertained and determined.



2099. (3927) *Fees of assessor*.—For making the demand on the taxpayer for his list of assessment, and for each assessment of property to “owner unknown,” to be charged to the taxpayer or property assessed, and collected with the taxes, the assessor shall be entitled to fifty cents, to be entered upon the assessment. But the assessor shall be entitled to only one demand fee against each taxpayer. He shall be entitled to a fee of twenty-five cents for each notice issued from the court of county commissioners or other court of like jurisdiction, and served or mailed by him, the same to be charged to the taxpayer if the case made against such taxpayer be sustained, and to be added to such taxpayer’s assessment; but in cases where the State fails before the court of county commissioners he shall receive no fees. For serving each subpoena for State witnesses, issued by order of the court of county commissioners or other court of like jurisdiction, the tax assessor shall be entitled to receive twenty-five cents, to be taxed against the defendant and collected with the taxes, if the State prevails.

Appointment  
of Deputies.

2100. (3928) (467) *Appointment of deputies; liability for acts of deputies*.—The tax assessor is authorized to appoint deputies, and the acts of such deputies shall be recognized as his acts, and he shall be responsible for any loss sustained by any taxpayer, or by the State or county, by reason of any unlawful act or assessment done or made by any of such deputies. Such deputies shall receive no compensation for their services out of the State or county revenue.

Assessment  
blanks.

2101. (3929) *Tax assessor to have assessment blanks printed; taxpayer entitled to copies*.—It is the duty of the assessor to have printed, at the expense of the county, a sufficient number of assessment blanks in the form prepared and furnished by the State auditor; and, upon request of any taxpayer, the assessor shall furnish him with a copy or copies for use in rendering his assessment list.

## ARTICLE V.

Assessments; When and How Made; Duties of Tax Payer, Assessor and Appraiser; Filing Lists and Books of Assessment and Notice Thereof; When Assessor Suspended. 2102-2132.

2102. (3930) *Commencement and completion of assessment; supplemental assessment.*—The assessment of taxes by the tax assessor must com-<sup>Completion and supplemental assess-</sup>mence on the first day of October in every year, and shall be finished by him by the first day of February following; but the assessor may be allowed until the first Monday in May in each year to make a supplemental assessment upon property which he may have failed to assess prior to the first day of February; and such supplemental assessment he must enter in the original book of assessment as any other assessment; and the judge of probate shall embrace such assessment in his abstracts for the auditor and collector.

2103. (3931) *Appointments by assessor and notice thereof; effect of failure to give notice or attend.*—The assessor shall give at least twenty<sup>Appoint-</sup>days' notice, by advertisement in a newspaper, if there be one published in the county, and by bill posted at five or more public places in each elec-<sup>As amended, Dec. 16, 1898, p. 50.</sup>tion precinct, of the time when and the place where he will attend to assess the taxes. He shall visit each precinct, and remain there one time from eight o'clock a. m. until four o'clock p. m. In towns other than county seats of five thousand and inhabitants or more, he shall remain at the place of the appointment for one month, and in places of one thousand inhabitants and not over five thousand inhabitants, he shall remain at the place of appointment for one week. Upon failure of the tax assessor to give the notice required by this section or to attend any appointment made by him in any precinct, he shall, after legal notice, fill new appointments or forfeit all claims

to fees from such persons in such precincts as were disappointed by his non-attendance. In all counties having fifty thousand inhabitants or more, he shall keep his office open at the court house all the year round, and in all other counties he shall keep his office open at the courthouse from the first day of October until the first day of May following.

Duties of tax  
payer.

2104. (3932) (470) *Taxpayer to attend appointment and return list of his property.*—It is the duty of every person liable to taxation in each election precinct to attend in person before the assessor, on the first day of the appointment in the precinct of the taxpayer's residence, and then and there render to the assessor, under oath, a full and complete list of all the property of which he was the owner, or in which he had any interest whatever, or of which he was trustee or agent, on the first day of October of that year.

Oath.

2105. (3933) (479) *Oath to be administered to taxpayer.*—The tax assessor or his deputy must orally administer the following oath to every taxpayer before receiving his return: "You do solemnly swear that you will true answers make to the lawful questions which I may put to you touching the return you are about to make, and that you will make a full and complete return of all the property owned by you, or in which you had any interest whatever, or of which you were trustee or agent, on the first day of October of the present tax year. So help you God."

Duties of  
assessor.

2106. (3934) (480) *Assessor to interrogate taxpayer as to items and details of property.*—After administering the foregoing oath, the assessor shall particularly inquire of the said taxpayer as to the items and details of property and subjects of taxation, of which he may be supposed to be in possession, and for which he is liable to be taxed, and property exempt from taxation, in order that he may elicit from such taxpayer a complete statement of the whole amount and specified items of the property and subjects

of taxation, with which he should be charged for purposes of assessment and taxation; and the same having been entered upon the proper assessment blank, the assessor shall require the taxpayer or his agent to make and subscribe to an oath, to be actually administered to him by the assessor or his deputy, that such list is a true and correct list of all real and personal property, effects, and choses in action, owned by such taxpayer, or in which he had any interest whatever, on the first day of October of that year, and a true answer to all questions lawfully propounded to him touching the same.

2107. (3935) (471) *Demand of taxpayers failing to meet assessor at appointments.*—After he shall have completed his appointments in each year, the assessor shall, in person or by deputy, make a demand upon such taxpayers as failed to meet him and return their lists at his appointments, wherever he may find them, for a list of their taxable property, and whenever unable to find them, he may leave a written demand at their residences, or places of business; or where such taxpayer is a non-resident of the county wherein such tax is to be paid, such demand may be made by letter addressed and mailed to such taxpayer's last known residence; and it shall be their duty to return such lists to him by the first day of February following, at his office or wherever he may be found.

Tax payers  
failing to meet  
assessors.

2108. (3936) (473) *Full statements of subjects of taxation required of taxpayers.*—Every person of full age and of sound mind, and every firm and body corporate or politic shall, when legally called on by the assessor, forthwith make to him a full, true, and distinct statement of all the real and personal property, with a correct description thereof, of which he is the owner or holder, individually, or as guardian, parent, husband, trustee, administrator, executor, receiver, accounting officer, partner, agent, or factor, and including all moneys and credits so held or owned, or in deposit anywhere, on the first day of Oc-

Statement by  
tax payer.



tober preceding, except as herein otherwise prescribed.

When list may be sent in. 2109. (3937) (474) *When sworn list may be sent in by another person.*—When a taxpayer resides out of the county, or, by reason of any infirmity or disability, is unable to attend the appointments of the assessor, or is a woman, such taxpayer may send in his or her list, duly sworn to, by another person, or such list may be rendered by an agent having knowledge of his or her taxable property. Any person who knowingly subscribes to a list of property which is false, is guilty of perjury.

Assessor to make assessments. 2110. (3938) (481) *When assessment of property made on information.*—If any taxpayer refuses or fails to make such return as herein required, or the assessor be not satisfied with the correctness thereof, the assessor shall, from the best information he can obtain from any source within his reach, make such assessment of the property and subjects of taxation, to be charged against such taxpayer, as he may deem just and lawful.

Amount and value of items. 2111. (3939) *Assessor to fix value of each item of property.*—The assessor shall, from such lists and from all other information known to him, ascertain the amount and actual cash value of each item of property so returned by or listed to any taxpayer; and the assessor shall, in separate columns, enter on such list such amount and value and the deduction for exemptions to which such taxpayer is entitled; and the assessor shall also add to such list any item of property owned by such taxpayer, or in which he has any interest whatsoever, and which he has failed or omitted to place on such list; and the assessor shall, upon demand, furnish the taxpayer with a certified copy of his assessment list so amended.

Estimate of values. 2112. (3940) (475) *How values estimated; minerals and timber, when assessed separately.*—Real and personal property shall be estimated at its value in money, according to the best judgment the assessor can form upon information,



inspection, or otherwise, taking into consideration, if real estate, its location, whether in town, city, or country, and whether it is vacant and lying idle, or is occupied and in use, and if occupied and in use, the rent derived therefrom, its proximity to local advantages, its quality of soil, growth of timber, mines, minerals, quarries, or coal beds, and the amount and character of the improvements thereon; and mineral and timber interests, when they have been severed in ownership from the soil, by sale or otherwise, shall be separately assessed; and if the person returned such list demand it, the assessor shall enter the values of such property in his presence.

2113. (3941) (476) *How real estate may be described.*—The description of real estate may be as follows: <sup>Real estate description of.</sup>

1. If it is an entire section, it may be described by the number of the section, township, and range.

2. If it is subdivision of a section, authorized by the United States for the sale of public lands, it may be described by a designation of such subdivision, with the number of the section, township and range.

3. If it is less or other than such subdivision, it may be described by metes and bounds, or in some way by which it may be known.

4. If it is in a city, town, or village, surveyed and laid off, and a plat thereof is recorded in the office of the judge of probate of the county, and it is a whole lot or block, it shall be described by the designation of the number thereof; and if it is a part of a whole lot or block, it may be described by metes and bounds, or in some other way by which it may be known; and it shall not be necessary to insert the quantity of such land in the assessment.

5. If it is a tract of which the subdivision is not known to the assessor, it may be described by metes and bounds, or in some other way by which it may be known or identified.

6. It shall be sufficient to describe lands to be assessed or sold for taxes, by initials, abbreviations, and figures.

2114. (3942) (477) *By whom property should be listed.*—The property of every minor should be listed by his guardian, if he has one; if he has no guardian, by his father, if living; if the father is dead, by his mother, if living. If the mother is also dead, or is married, by the person having it in charge; or the wife, by the husband, if living and sane, and the parties reside together; if the husband is dead or insane, or is not living with the wife, by the wife; of any person for whose benefit property is held in trust, by the trustee; of every deceased person, by the executor or administrator; of those whose property is in the hands of receivers, by such receivers; of every firm, or body corporate or politic, by the partner, president, principal officer, or agent thereof; property in the hands or custody of any public officer or appointee of a court, by such officer, or appointee; of those absent or unknown, by their agents, or the person having it in charge; of insane or idiotic persons of full age, by their guardians, if they have any; if they have no guardian, by the person having it in charge; of the lessors of real property, by such lessors; and all persons herein required to list property for others shall list it separately from their own, and in the name of the owner thereof.

2115. (3943) (508) *Assessment of property and receipts of telephone companies; penalty.*—The president, secretary, or manager of every telephone company, except long distance telephone companies, owning or operating lines, must annually, on or before the first day of February, make, under oath, to the assessor of the county in which such instruments are located, or such lines are operated, a return of the number of miles of telephone wire in the county belonging to such company and the value thereof, the number of poles, batteries, instruments, and articles of all kinds in the county connected with

Telephone  
companies.

As amended,  
March 5, 1901,  
p. 218.

its business and the value thereof, and the amount of the gross receipts of such company from its business done in the county during the preceding tax year; and in case such return is not made by any company within the time required, the assessor must ascertain, from the best information he can obtain, the amount and value of such property, and the amount of such receipts; and on the property and receipts so returned or ascertained, the assessor shall assess the taxes against such company; and when there has been a failure on the part of any company to make a return of such property and receipts within the required time, the assessor shall add to the assessment against such company a penalty of fifty per cent on the amount thereof. Such assessment, as well as the assessment of other taxable property of such company in the county, must be entered by the assessor in the book of assessments.

2116. (3944) (482) *When assessment of receipts made on information; penalty.*—When any person, or any company, corporation, or association, existing under the laws of this State, or under the laws of any other State or country doing business in this State, is required to make to the assessor returns of the gross or net receipts, premiums, or commissions of such business, and such returns are not made within the time required by law, but shall remain in default for the space of ten days thereafter, the assessor, after notice to the party required to make such returns, or if he is absent from the county, without notice, shall, upon the best information which he can obtain, ascertain the probable amount of such receipts, premiums, or commissions, and shall assess to the person, company, corporation, or association, so in default, the amount so ascertained, with fifty per cent thereon as a penalty; and the amount so assessed, including the penalty, shall be the amount on which the tax levied by law shall be collected.

Assessments  
on receipt pre-  
miums or com-  
missions.

Assessment on  
information.

2117. (3945) (483) *Assessment made on information after Feb. first; five per cent penalty.*—

Having failed to procure, upon verbal or written demand, from any delinquent, his list of taxable property before the first Monday in February, the assessor shall ascertain, from inquiry or otherwise, the property and other subjects of taxation upon which such person is liable to be taxed, to the best of his information, and assess the same at its actual cash value, to the best of his judgment, and add ten per cent of such value to the same as a penalty for non-assessment, which penalty shall not be remitted, except upon proof that the delinquent taxpayer was absent from the State, and had no resident agent therein during the time for rendering assessment, or when such taxpayer labors under disability of minority, or is a lunatic, or upon proof made that he was unable to meet the assessor at his appointment by reason of sickness.

Assessment  
to owners un-  
known.

2118. (3946) (484) *Assessments to "owners unknown;" how made; lands in one body not to be split up to multiply fees.*—

Whenever the assessor, while performing the duties of his office, known or learns of any property, real or personal, subject to taxation in his county, the owners of which he does not know, and which is not embraced in any return made him, prior to the first of February, by any taxpayer, he shall assess the value to "owners unknown," according to the best information which he can obtain, and shall add to the actual cash value thereof ten per cent as a penalty for non-assessment, which said penalty shall not be remitted by the court of county commissioners, except upon proper showing by the taxpayer that he was absent from the State and had no agent in the State at the time of the assessment, or that such taxpayer labored under the disabilities of minority, was insane, or was disabled by sickness from attending the tax assessors' appointments; and when the tax assessor finds a lot, tract, or parcel of land that has escaped taxation, it shall be his



ity to assess such land to "owner unknown," and in any notice or advertisement or motion for a decree of sale, it shall be described as so assessed; and the assessor shall be entitled to the same fees for making such assessment as for demands made by him on taxpayers. In such case lands lying in one body, other than lands platted and divided into lots, shall be assessed as a whole, unless the assessor has reason to believe that they belong to different owners, in which case all the lands lying in one body and supposed to belong to the same owner must be included in one assessment; and no fee shall be allowed the assessor for any assessment made in disregard of this provision, but the assessment is not for that reason invalid. But no lands shall be assessed to "owner unknown" until the assessor shall have made a demand upon the person, if resident in the county, or by registered mail of a non-resident whose address is known, to whom said lands or property were last assessed, in the event said lands or property have been assessed, and said assessor shall make diligent inquiry to ascertain the name of the owner of said lands or other property.

2119. (3947) (485) *Assessment of escaped taxes.*—Whenever the assessor, while assessing the property and other subjects of taxation in his county, shall discover that property has escaped taxation in any assessment within five years next preceding, he shall assess the taxes against such property, for the years during which such property has so escaped taxation. Any assessor who shall knowingly permit any property to escape taxation shall be deemed guilty of willful neglect of duty.

As amended,  
March 4, 1903,  
p. 191.

2120. (3948) (486) *Form and contents of assessment list; assessor to make plat-book, etc.*—<sup>Assessment lists.</sup> The taxable property, and other subjects of taxation, and the property exempt from taxation, shall be entered, or caused to be entered, by the assessor, upon a blank assessment list in the form prescribed by the State auditor, with a full



Plat book.

description of all property shown therein; and the assessor shall ascertain the value of each item or subject of taxation, and shall enter the same in appropriate columns upon such assessment lists; and the assessor shall also enter, in appropriate columns, upon such lists, the amount of State, county, and special taxes, on the aggregate of all real and personal property separately. And the assessor shall also make out a complete plat-book of all real estate in his county, unless such plat-book has already been provided, on a book to be prescribed by the State auditor, on which book the name of each owner shall be entered on the separate plat assessed to or by him, where the same is practicable; for which book each county court of commissioners or board of like jurisdiction shall pay, if the price of the same be found by them to be reasonable, and shall also pay the assessor for making out such plat-book a sum not exceeding one hundred dollars in counties of twenty-five thousand inhabitants and upwards, and fifty dollars in counties of less than twenty-five thousand inhabitants.

Commissioner's court.

2121. (3949) *Assessor to deliver assessment lists to court of county commissioners, etc.*—Such assessment lists shall be, by the assessor, delivered to the court of county commissioners, or other court of like jurisdiction, for examination in connection with the book of assessments, together with such supplemental assessments as he may make on or before the first Monday in June of each year, for examination by such court.

Tax books.

2122. (3950) (487) *Condensed statement of assessment and polls entered in books by assessor.*—The assessor must make and enter in a book, suitably ruled and substantially bound, a condensed statement of all assessments made during each tax year, showing, in separate columns, the names of persons assessed in each precinct, in alphabetical order, the number of acres of land and other real estate, with the description and value thereof; and the number, amount,

and value of all other taxable property, and subjects of taxation assessed to each person, and property exempt from taxation; and the number, amount, and value of each separate item entered therein, together with the amount of the State tax charged to each taxpayer, shall be extended and footed up, the footing carried forward, from page to page, and the total amounts thereof footed up.

2123. (3951) (488) *Books and lists to be delivered to judge of probate.*—On or before the first Monday in May of each year, the assessor shall deliver to the judge of probate of his county such assessment book and poll-tax book, and also all assessment lists, including supplemental assessment lists; and such books and lists shall be open to the inspection and examination of all persons.

2124. (3952) *Judge of probate to examine book, and if correct, give duplicate receipts therefor; copy to be sent auditor.*—Upon the delivery of such assessment books to the judge of probate he shall carefully examine the same, and, if made correctly and in accordance with the law, he shall receive the same giving duplicate receipts therefor to the assessor, one of which duplicates shall be by the assessor promptly forwarded to the State auditor; but if the judge of probate find such books of assessment improperly made and not in accordance with the law, he shall forthwith report the facts to the governor.

2125. (3955) (492) *Duty when taxpayer about to leave county.*—When the assessor has reason to believe that any person who has been assessed is about to leave the county, he shall at once notify the tax collector, and on his failure to do so, he shall be liable for the full amount of the taxes due, or to become due upon such assessment.

2126. (3956) (493) *Duty to compute and enter county taxes and complete assessment book.*—After the county taxes shall have been levied by the court of county commissioners, the assessor must compute the amount thereof owing

by each taxpayer, and enter the same in the book of assessments opposite the name of such taxpayer, and otherwise complete such book according to law and the orders of the court of county commissioners.

Land Book.

2127. (3957) *Land-book to be prepared by assessor.*—It is the duty of the tax assessor of every county in this State to procure, at the expense of the county, a book, properly ruled and bound, in which he shall enter a complete list of all the lands in the county, by the smallest subdivisions, beginning with the lowest section, township, and range, proceeding in numerical order to the highest, and indicating the same by initial letters, abbreviations, and figures in a marginal column on the left of every page.

Entries in book.

2128. (3958) *Form of book and entries to be made.*—Such book shall contain not less than four blank columns on each page, in one of which, and opposite to each subdivision, the tax assessor shall enter annually, stating at the top the year of entry, the word “public,” if the same is public; the word “school,” if the same is school land; the word “state,” if the same has been bid in by the State for taxes; and opposite to such lands as are taxable, he shall enter the name of the reputed owner, but when the name of the owner is not known he shall write the words “owner unknown.”

List lands each year.

2129. (3959) *Lands to be listed each year.*—The assessor shall list such lands each year, as provided in the preceding section, by comparing the list of the preceding year with the assessment sheet with the list of lands bid in by the State for taxes, as furnished by the State auditor, and with the supplement to the county tract-book, as furnished the judge of probate by the secretary of State.

When to deliver book to judge of probate.

2130. (3960) *Land-book to be delivered to judge of probate by first Monday in May.*—The assessor shall deliver such book, with the listing complete for the year, to the judge of probate of his county on or before the first Monday in

May of each year, and the same shall be open to inspection and examination of all persons until the first day of October following, or until such time thereafter as it shall be required by the tax assessor; provided, that said book shall be kept in the office of the judge of probate or in the office of the tax assessor, provided he has an office at the county seat.

2131. (3962) *Judge of probate to receipt for land-book and certify fact to auditor.*—It is the duty of the judge of probate to issue to the tax assessor, when such book is delivered, if properly filled out for the year, according to the provisions of this article, a receipt for the same, and immediately certify the fact to the State auditor.

2132. (3963.) *Compensation of assessor for making landbook.*—For the services rendered by the assessor in respect to such land-book, he is entitled to compensation, to be allowed by the court of county commissioners, and paid by the county as follows: In counties whose population does not exceed ten thousand inhabitants, not more than fifty dollars; in counties whose population exceeds ten thousand inhabitants, and does not exceed twenty thousand, not more than seventy-five dollars; in counties whose population exceeds twenty thousand inhabitants, and does not exceed thirty thousand, not more than one hundred dollars; in counties whose population exceeds thirty thousand inhabitants, and does not exceed forty thousand, not more than one hundred and twenty-five dollars; in counties whose population exceeds forty thousand inhabitants, and does not exceed sixty thousand, not more than one hundred and fifty dollars; in counties whose population exceeds sixty thousand, not more than two hundred dollars.



## ARTICLE VI.

Assessment Against Railroad and Telegraph Companies; State Board of Assessment; Its Powers and Duties. 2133-2145.

Railroad companies. 2133. (3964) (494) *Return to be made by railroad companies to auditor.*—On or before the first day of February of each year the president, secretary, or auditor of any railroad company whose track or roadbed, or any part thereof, is in this State, or if such railroad is in the hands of a receiver, such receiver shall, under oath, make to the State auditor a return in writing of the total length of such railroad, including the right of way, roadbed, side tracks and main track in this State, and specifying the total length in this State, and in each county, city, and incorporated town in this State; and also of the number of the locomotive engines, and passenger, freight, platform, construction, and other cars of such company, and of the average amount of merchandise and supplies kept or carried on trains for sale or other disposition, for a profit by such company, to employes or other persons in this State, for the year next preceding the return; and such return the State auditor shall lay before the State board of assessment at its next meeting thereafter.

Duty of auditor. 2134. (3965) (495) *Duty of auditor on failure to make such return.*—If such return is not made on or before the first day of February of each year, the State auditor shall proceed to ascertain the items and values in the preceding section mentioned, from the best information he can obtain, and report the same to the State board of assessment at its next meeting thereafter.

State Board. 2135. (3966) (496) *State board of assessment.*—The governor, secretary of State, auditor, and treasurer of the State shall constitute a board for the assessment of the items of property of railroad and other companies required



to be returned to the State auditor, to be known as the State board of assessment. The governor shall be president of such board, and a majority thereof shall constitute a quorum. In the absence of the governor, the State auditor shall be president pro tempore of the board.

2136. (3967) (497) *Meetings of such board.*  
—Such board shall meet at the office of the State auditor annually, on the first Wednesday in February, and if there should not be a majority of the board present at that time, the State auditor shall immediately notify the governor of the fact, who shall appoint another day for the meeting of the board, as early as practicable thereafter, and of such appointment the State auditor shall notify the other members and the attorney-general; and should any further failure to meet occur, the governor shall have the power and he is required to repeat the appointment until a quorum is obtained; and of such subsequent appointment like notice must be given by the State auditor. Meetings.

2137. (3968) (498) *Assessment by board; penalty for failure to make return.*—The board when assembled, if ready to act, shall proceed to examine the returns made by railroad companies, and the reports of the State auditor, when no such returns have been made, and determine the valuation of the different items of property required to be returned to the State auditor, and to assess such property for taxation; and in case no return has been made by or on behalf of any such railroad companies, the board may add to the assessment which it may make against such company, a penalty of not exceeding fifty per cent thereon. Duties of board.

2138. (3969) (499) *Adjournment of board; powers relative to obtain data for assessments.*  
—If at any meeting the board should not have in its possession satisfactory data upon which to base an estimate of the value of the property with the assessment of which it is charged, or from any other cause is not able to make or com- Power

plete any assessment, it may adjourn for any interval of time which may, in its opinion, be requisite to accomplish its object; and it shall have power to call upon any officer or agent of any railroad company, or upon any receiver in charge of the railroad of any company, for any records, books, or documents of any description pertaining to the business of such company, or for answers to any interrogatories which it may deem necessary to an intelligent discharge of its duties; and it shall also have power to require the attendance of any officer of any railroad company, or any other person, where the testimony of such officer or person may to it seem material.

Duties of attorney general.

2139. (3970) (500) *Attendance and duty of attorney-general at meeting of board.*—The attorney-general shall be present at every meeting of the board, to represent that interest of the State; and it shall be his duty to assist the board with his advice, or otherwise, and to make such suggestions and representations to it as he may deem advisable for the protection of the interests of the State; and his absence shall be sufficient cause for adjourning the session of the board.

Record.

2140. (3971) (501) *Record of proceedings; attorney-general decides when board equally divided.*—The board shall keep a record of its proceedings, which shall show what members were present at its meetings; and when the members are equally divided upon any question, the attorney-general shall decide such question; and in every case in which he dissents from the conclusions of a majority of the board, he shall spread upon the records his reasons for such dissent.

Valuation.

2141. (3972) (502) *Principles of valuation of railroad, long distance telephone, and telegraph property.*—The valuation of the property of railroads, long distance telephone, and telegraph companies for taxation, shall be made upon the same principles as the valuation of every

other species of property; that is to say, the valuation of such property shall be had upon the consideration of what a clear fee simple title thereto would sell for under the conditions under which that character of property is most usually sold, and as evidence tending to show what this would be, the State board of assessment shall ascertain as near as they can and consider the average market value of the stocks and bonds of such companies in the markets during the preceding twelve months, and shall also take into consideration the estimated investments, and valuation of said property as returned by the duly authorized officers or agents of said companies to the railroad commission as a basis for the adjustment of rates for services to the public by such companies, and all other legal information as to such values which they may obtain.

2142. (3973) (503) *Notice to assessors, and copy to superintendent of companies; duty of assessors.*—When the board shall have completed the assessment of the property of any railroad company, the State auditor shall notify the tax assessor of each county, through which such railroad runs, of the number of miles of track in his county, and the value thereof, and the proportionate value of the other property of such company assessed by the State board of assessment, and taxable in his county, which he must enter in the book of assessments, in addition to the assessment of other real estate, fixtures, machinery, tools, and other property of such company, to be assessed as other property of like kind owned by private citizens of his county; and the State auditor shall also send to the superintendent of each railroad company, so assessed by such board, a copy of his notification to the tax assessor touching the assessment against such company.

2143. (3974) (504) *Returns to be made by telegraph companies.*—The president, secretary, auditor, or managing agent in this State of every telegraph or long distance telephone company.

As amended,  
March 7, 1907,  
p. 349.

Duties of auditor and assessor.

Returns of telegraph and long distance telephone companies.

pany, whose line, or any part thereof, is located within this State, must annually, on or before the first day of February of each year, make, under oath, to the State auditor, a return of the number of miles of telegraph or telephone wire in the State belonging to such company, and the number of poles, batteries, instruments, and articles of all kinds, in the State, connected with its business, specifying the several counties in which such property is situated, and the items of property situated in each of such counties, and if any such company, its officers, or agents fail to make such return, within the time specified, the State auditor must ascertain such items of property and values from the best information he can obtain.

2144. (3975) (505) *Report of auditor to State board; assessment, and proceedings thereon; penalty.*—The State auditor must lay before the State board of assessment, at its next meeting thereafter, such returns, and when not made by any company, he must report to the board the items of property and value of the company failing to make returns, as ascertained by him; and thereupon the board must proceed to examine such returns and reports, determine the valuation of such property, and assess the same for taxation, as in the case of assessment of the property of railroad companies, and it may add to the assessment against any telegraph or long distance telephone company failing to make returns within the required time a penalty of not exceeding fifty per cent thereon. Upon the completion of the assessment against any telegraph or long distance telephone company by the board the State auditor shall give to the tax assessors of the several counties in which such property is situated, and to the superintendent or managing agent of such company in this State, the same notification touching such assessment as is required of him in case of assessment against railroad companies; and thereupon such assessors must act in reference to such assessment, and to

As amended,  
March 5, 1901,  
p. 219.

Duties of au-  
ditor and State  
board.

As amended,  
March 5, 1901,  
p. 219

Penalty.

Duties of as-  
sessor.



assessment of any other property of such company taxable in their counties, as they are directed to act in cases of assessment against railroad companies by the State board of assessment.

2145. (3976) (509) *Assessment of other property of railroad, etc., companies.*—All property, real or personal, belonging to railroad, telegraph, telephone, sleeping car, and express companies, which is not required by the provisions of this article to be returned to the State auditor, must be returned to the tax assessor of the county in which it is taxable, and by him assessed as other property in the county is returned and assessed. As to other property.

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## ARTICLE VII.

Powers and Duties of Courts of County Commissioners, and Duties of Judge of Probate Touching Assessments; Levy of County Taxes. 2146-2159.

2146. (3977) (510) *Terms of commissioners' court.*—For the performance of their duties under this chapter, the court of county commissioners, or other court having like jurisdiction, in every county, shall hold regular terms on the first Monday in June and the second Monday in July of every year, and such adjourned and special terms as may be necessary; and such terms, regular, adjourned, and special, may continue until the business of the court has been completed. Commissioner's court.

2147. (3978) (511) *Duties of the court at the June term.*—The judge of probate, at the term of such court commencing on the first Monday in June, shall deliver to the court the book of assessments, and all lists of assessments, as received by him from the assessor; and the court shall then proceed to examine the same, and if they are prepared according to law, the court Duties of judge of probate and commissioners



shall accept them; but the court must refuse to accept any assessment list not returned in the manner prescribed by this chapter, unless it shall satisfactorily appear that the prolonged absence, or the non-residence of the taxpayer, was the cause thereof; and all assessment lists accepted by the court must be alphabetically arranged under its direction, and be carefully preserved for reference for five years, when they may be destroyed. The court must also order notice to be given for fifteen days, by advertisement in some newspaper published in the county, or if there be none, by posting the same at the courthouse door and two other public places in the county, that the book of assessments has been prepared and is ready for inspection, and that the court will sit on the second Monday in July thereafter to examine the assessor's returns, and to correct any errors therein; and it shall be the duty of the judge of probate to see that such notice is given.

Hearing ob-  
jections.

2148. (3979) *Correction of errors in assessments; proceedings; appeal.*—Said court shall sit on the second Monday in July, for the purpose of hearing objections to the assessments as provided in the preceding section, and shall, if the notice therein provided has been given, determine the same, on the evidence which may be offered. Whenever objection is made, the court must cause the case to be stated on a docket in the name of the State of Alabama, as plaintiff, and the taxpayer as defendant, with a note of the objection set opposite the statement of the case. The assessor shall attend all trials of objections to assessments, and shall subpoena witnesses and introduce all documentary evidence which may be necessary to a full understanding of the question. If the taxpayer appears in person or by attorney, or has had five days' notice, the court shall raise or reduce the valuation of any property or subject of taxation and fix it at the sum which the evidence shows to be the fair market or real value thereof, and shall add such items

of taxation and fix the value thereof, as may have escaped assessment. If necessary, the court may postpone the hearing to a future day, and may cause notice to the defendant to be served on him by the assessor, if he is a resident of the county, or on his agent or attorney, if the taxpayer does not reside in the county, or if he does not reside in the county and has no agent or attorney therein, then notice shall be given by registered mail by the assessor. In hearing such objections, the court shall receive only evidence touching the fair market or real value of the property, and shall take into consideration its character, whether improved or not, its surroundings, and, if it is productive, the amount of its average annual yield, and every other fact which a prudent man seeking to buy the property would consider, and must render its decision at once, unless the taxpayer consents to a longer time, and the decision must be entered on the docket and signed by the presiding officer of the court. From the judgment of the court either party may appeal in ten days to the next term of the circuit court, or court of like jurisdiction, where the cause shall be tried *de novo*, but a bond in double the amount of the tax and probable cost shall be required of the taxpayer, conditioned to prosecute such appeal to effect, and pay such judgment as the court may render. If on the trial of the appeal it should appear that Appeals. the appeal was taken for delay, judgment must be rendered against the appellant and his sureties for the amount of the tax and costs and ten per cent thereof. If no appeal is taken, the tax assessor shall correct the assessment lists according to the judgment of the court. The lien of the State on all property of the taxpayer shall not be discharged by any appeal, but the same shall continue till the tax and costs and damages, if any, are paid in full. The court of county commissioners shall have power to correct any error or omission discovered after the July term. All appeals taken under this section shall

be preferred cases, and must stand for trial at the term next after the appeal; and if the taxpayer is the appellant and the appeal is continued for the term, the court must order the taxpayer to pay the amount of taxes at which the owner assessed the property the current year, and such order of the court, entered of record, shall be sufficient authority to the tax collector to collect that amount of the taxes claimed. But no change shall be made in the values of any preceding year when the taxes have been collected on such property.

2149. *Oath of county commissioners or board of revenue.*—Annually, before commencing to perform their duties for the correction of errors in the assessments, each member of the board of revenue, or court of county commissioners, shall take and subscribe the oath set out hereinafter. The State auditor shall forward annually in June of each year to the chairman of such boards or courts printed forms of such oaths, together with a circular letter setting out in full section 2152 (3982) of the Code, with the penalties provided by law for failure to comply with the same, and directing that said oath shall be taken and entered upon the minutes of the board or court. Said oath shall be in form and substance as follows:

State of Alabama, }  
County of \_\_\_\_\_ }

Before me (to be administered by any judge, register, justice of the peace, or notary public) personally appeared———, members of the board of revenue, or court of county commissioners, of —— county, who on oath declare and say that while engaged in the duty of correcting errors in the assessments or passing on the assessment of escaped taxes, they will fix a value on all property assessed for taxes at its fair cash market value, and that they will in no case, where the facts are brought to their knowledge, reduce the value of any property for taxation below the fair market value of the property.

or what the property would sell for cash, and that they will make diligent effort and inquiry to ascertain the value of all property to be passed on by them. Sworn to and subscribed before me, this —— day of July, 19——.

2150. (3989) (513) *Duty of assessor to attend court.*—The tax assessor shall attend the terms of such court held in June or July, or any adjourned or special term thereof, while the court is engaged in examining, hearing, and correcting assessments. Duties of assessor.

2151. (3981) (514) *Assessments of escaped taxes reported to court; how entered, collected, and paid over.*—Every assessment of escaped taxes against any property, made by the assessor, collector, or tax commissioner, shall be by him reported in writing to the court of county commissioners, who, upon five days' written notice to the person against whom the assessment is made, if known, is in the county, or has an agent therein, who is known to the assessor, or to the court, to be served on him or his agent by the assessor, or his deputy, shall, at any regular, adjourned, or special term, proceed to allow, modify, or reject the assessment as the justice of the case, upon the evidence adduced, may require. If the person against whom the assessment is made is a non-resident of the county, or has no known agent therein, ten days' notice shall be given by registered mail addressed to him at his residence, if the same be known. If the assessment is allowed as made, or is modified and allowed, it shall be entered in the book of assessments, collected, and paid over as other assessments for the year in which it was made; but the rate of taxation thereon, both for State and county purposes, shall be governed by the rate for the year or years the subject of the assessment escaped taxation; and the notice herein required may be served by the assessor, collector, tax commissioner, or their deputies, or by the sheriff of the county. As amended, March 4, 1903, p. 191.



2152. (3982) (515) *Intent and purpose of foregoing provisions; same liberally construed.*—The intent and purpose of the foregoing sections of this article is to have all property and subjects of taxation fairly assessed, at the value which would be realized therefrom by cash sale, but not a forced sale thereof, in such manner as such property and subjects are usually sold; and for this purpose, the power and authority conferred in this article upon the court of county commissioners shall be liberally construed. But said court is expressly prohibited from reducing the valuation of any property below the fair cash market value of the property, or what the property would sell for cash.
- Values.
2153. (3983) (516) *When collector notified of changes in assessment.*—It shall be the duty of the court of county commissioners, if any errors are corrected, or any abatement or deduction in assessments are made at any time after the collector's book has been, by the judge of probate, turned over to the tax collector, forthwith to notify such collector of the same.
- Notice to collector.
2154. (3984) (517) *Court may require assessor and collector to produce books and papers.*—The court of county commissioners shall have power to compel, at any time, the production before it of all such books and papers as by law are required to be made or kept by the tax assessor and tax collector, relating to the revenue of the State or county.
- Power of court.
2155. (3985) (518) *Levy of county tax.*—It shall be the duty of the court of county commissioners at the term commencing not later than the first Monday in June, to levy the amount of taxes required for the expenses of the county for the current year, not to exceed one-half of one per cent on the value of the taxable property, and the amount of other subjects of taxation in the county, as assessed for revenue to the State, as shown by the book of assessments after it has been corrected.
- County tax.
- As amended,  
March 4, 1903.  
p. 192.



2156. (3986) (520) *Certificate on book of assessments after it is corrected and completed; warrant of collector.*—When the court of county commissioners, or other court of like jurisdiction, has completed its examination of assessments, and after the county taxes have been levied; and the assessor has corrected the book of assessments in accordance with the decisions of such court, and after the assessor has extended opposite the name of each taxpayer the amounts of the State and county taxes, and other tax, if any, with which such taxpayer is chargeable, and has footed at the bottom of each page the aggregate amount of each of such taxes, carried his footings from page to page, and shown, in conclusion, the aggregate of each of such taxes, the presiding officer of such court shall certify on the book of assessments that the same has been examined, corrected, and allowed by such court; and that the amount of State tax is \$—, the amount of county tax is \$—, the amount of special tax is \$—, specifying the total amount of each of such taxes; and such certificate shall be the warrant to the tax collector of the county to proceed to collect such taxes in the manner directed by law. <sup>Corrected tax book.</sup> <sup>Warrant to collector.</sup>

2157. (3987) (522) *On completion of the book of assessments, judge of probate to make abstracts for auditor and collector.*—When the book of assessments has been completed as herein provided, the judge of probate must, without delay, make out in duplicate, upon forms to be furnished by the State auditor, a complete abstract of all real and personal property, as contained in the assessments book of his county, showing the total amount and value of each class of taxable property, and property exempt from taxation, and the amount of tax on each item extended in a column, one of which he must forward to the auditor, not later than the first of September of each year, and the other he must deliver to the tax collector by said date. The State auditor shall report to the governor <sup>Duties of judge of probate.</sup> <sup>Duties of auditor and governor.</sup>

any judge of probate who, for ten days after the time required, has failed to forward to the State auditor the abstract of assessment of his county, and the governor shall forthwith require of such judge of probate an official report of the cause of such failure.

Abstract book. 2158. (3989) *Judge of probate to furnish abstract book to collector before October first; compensation forfeited by delay.*—After the book of assessments has been completed as herein provided, the judge of probate must enter in a book, in concise form, the amount of taxes assessed against each taxpayer, showing separately the amount of taxes on real estate and personal property and other subjects of taxation, and the fees of the assessor, with a blank for the fees of the collector; and such book he must turn over to the tax collector on or before the first day of October on which the taxes shall become due and payable; and for the services rendered by him in the preparation of such book, he shall receive compensation, to be allowed by the court of county commissioners as follows, viz.: In counties where the aggregate assessed values of real and personal property amount to two million dollars or less, seventy-five dollars; when the assessed values amount to more than two and not exceeding four million dollars, one hundred dollars; when the assessed values amount to more than four, and not exceeding six million dollars, one hundred and twenty-five dollars; when the assessed values are more than six million and not exceeding eight million dollars, one hundred and fifty dollars; and when the assessed values are more than eight million dollars, such compensation as may be fixed by the court of county commissioners, not less than two hundred dollars and not exceeding three hundred dollars; but any judge of probate who fails to complete such abstract by the time required shall forfeit all right to any compensation.

List of insurance agents.

2159. (3992) (524) *List of insurance agents furnished assessor.*—The judge of probate must,

on or before the tenth day of January of each year, furnish the tax assessor with a list of all agents for insurance companies in his county, with the names of the companies represented by them, so far as the same are disclosed by any records or books in his office.

## ARTICLE VIII.

Tax Collector; Election, Qualification and Compensation; Deputies. 2160-2168.

2160. (3993) (525) *Tax collector; election* Tax collector.  
*and term of office.*—There shall be elected, at the time, in the manner, and for the term provided by law, a tax collector for every county in the State, who shall perform such duties as are or may be prescribed by law, and whose term of office shall begin on the first day of August next after his election. As amended Oct. 1. 1903, p. 370.

2161. (3994) (526) *Official bond.*—Before entering upon the discharge of the duties of his office, the tax collector must execute a bond in duplicate, in double the probable amount of the taxes that may at any one time be in his hands, to be determined for every county by the State auditor, payable to the State of Alabama, with at least two sufficient sureties, to be approved by the judge of probate of his county, and conditioned faithfully to discharge the duties of his office, which are or may be required by law during the time he continues therein, or discharges any of the duties thereof. One of such duplicates shall be filed and recorded in the office of the judge of probate, and the other shall be filed in the office of the State auditor, on or before the first day of July next after his election. Bond.

2162. (3995) (527) *Lien of bond.*—Such Lien on property. bond shall operate, from the date of its execution, a lien in favor of the State and county, on the property of the tax collector, and from the

date of his default, on the property of the sureties thereon, for the amount of any judgment that may be rendered against such tax collector for the breach of any official duty; and any new or additional bond, given in pursuance of law by the tax collector, shall operate a like lien.

Oath.

2163. (3996) (528) *Oath of office*.—He shall also, before entering upon the discharge of the duties of his office, file in the office of the judge of probate of his county, an oath in writing, that he will faithfully and diligently discharge all the duties which are or may be imposed upon him by law; and such oath must also be recorded.

Collectors  
commissions.

2164. (3997) *Commissions of tax collector on general and special taxes*.—The tax collector shall be entitled to receive commissions on taxes collected by him as follows, to wit: In counties where collections do not exceed twelve thousand dollars, the rate of commission shall be eight per cent on the first thousand dollars, four per cent on the second thousand dollars, and two per cent on the remainder. In counties where the collection exceeds twelve thousand dollars, the commission shall be as above declared up to twelve thousand dollars, and one and one-half per cent on the remainder up to sixty thousand dollars, and on all above sixty thousand dollars, one per cent. He shall also be entitled to receive two per cent on all collections made by him of special taxes, whether such special taxes be levied for the State or county, to be paid out of such special taxes. The collector may retain his commissions upon collections when he makes payments into the State treasury.

Mileage.

2165. (3999) *Mileage to and from seat of government*.—He shall receive five cents per mile in going to and returning from the seat of government, for the purpose of making returns and paying the taxes, once in each year, the distance to be the same as that established by law for the members of the legislature.

Cost of trans-  
mitting.

2166. (4000) *Cost of transmitting money to State treasurer allowed him*.—He shall also be



allowed the actual cost of transmitting his collections to the State treasurer, the same to be paid out of the treasury, or credited to the collector upon his making his annual settlement with the State auditor.

2167. (4001) *Fees of collector.*—For making actual demand on delinquent taxpayers, the collector shall be entitled to receive a fee of fifty cents from each taxpayer on whom such demand is made, which shall be charged against such taxpayer and collected for the use of the collector in the same manner and the same means as taxes are collected, but he shall charge only one fee against each taxpayer. For making a levy on and sale of personal property for the collection of taxes, the collector shall be allowed a fee of one dollar, to be collected out of the property, and in addition thereto he shall be authorized to collect out of such property the actual expenses of keeping and moving the same to the place of sale, provided that the collector may sell any personal property levied on at any place in the precinct that he may determine, or may move the same to the courthouse of the county for sale. For the levy on and sale of a tract, parcel, or lot of land assessed to one owner, or to "owner unknown," the collector shall receive a fee of fifty cents in addition to the demand fee on such delinquent taxpayer, the said fees to be made part of the decree of sale and collected with the taxes due on the land sold or levied on for sale.

2168. (4002) (532) *Authority to appoint and liability for acts of deputies.*—The tax collector is authorized to appoint deputies, and the acts of such deputies shall be recognized as his acts, and he shall be responsible for any loss sustained by any taxpayer, or by the State or county, by reason of acts done by such deputies in the line of their powers and duties. Such deputies shall receive no compensation for their services out of the State or county revenues.



## ARTICLE IX.

Collecting, Reporting and Paying Over Taxes; Interest; Escaped Taxes; Errors; Insolvencies; Litigated Taxes; Settlements; When Collectors Suspended. 2169-2209.

Appointments.

As amended  
March 5, 1901.  
p. 231.

2169. (4003) (533) *Appointments by collector, and notice thereof.*—The tax collector shall attend at a voting place in each election precinct in the county, once in each year, from eight o'clock in the morning until four o'clock in the afternoon, for the purpose of collecting the taxes of such precincts, and of the time and purpose of such appointments he shall give at least thirty days' notice, by publication in some newspaper, if one is published in the county, and by bills posted at five or more public places in each election precinct in the county, and shall keep his office open at the courthouse from the first day of October until the first day of May following, and in counties having fifty thousand or more inhabitants he shall keep his office open all the year round, and need not make or attend any appointments.

New appointments.

2170. (4004) (534) *Effect of collector's failure to attend appointments; new appointments.*—If the collector fails to fill either of such appointments in any precinct, he shall make, and, after like notice, fill a new appointment; and failing to do so, he shall forfeit the fee allowed him for making demand on any taxpayer in such precinct who may become delinquent, for the taxes due by him, and who attended and was disappointed by the non-attendance of the collector at such original appointment.

Delinquents.

2171. (4006) (536) *Demand upon delinquent taxpayers.*—After the first day of January the collector must make a personal demand, in writing, upon delinquent taxpayers, or their agents charged with the duty of paying their taxes, whenever they may be found, for the amount of their taxes and fees; and when un-

able to find them, he shall leave such demand at their places of business or residence; and it shall be the duty of such delinquents forthwith to pay the taxes and fees assessed and charged against them. But a failure to comply with the requirements of this section shall not invalidate the title to any property sold for taxes.

2172. (4007) (537) *Payment of taxes.*—It shall be the duty of the taxpayers in each precinct to meet the tax collector at one of his appointments therein, and then pay to him their taxes; but of from any cause such payment is not made at appointment, it may be made at any time before the taxes become delinquent, without incurring any penalty for failing to then make such payment; but if the taxes are paid after they have become delinquent, the taxpayer shall also pay all costs, fees, and charges, if any, that may at the time of payment have lawfully accrued, and it shall be the duty of the tax collector to make publication by three weekly insertions in some newspaper published in the county, and if there be no newspaper published in the county, by posting notices at the courthouse door and four other public places in the county, of the time when the taxes become delinquent; such publications, when published in a newspaper, shall be completed thirty days before the taxes become delinquent, and when given by posting notices, shall be posted thirty days before the taxes become delinquent.

Duty of tax  
payers.  
  
As amended,  
Feb. 23, 1899,  
p. 52.

2173. (4008) *Interest on taxes after becoming delinquent.*—All taxes, after becoming delinquent, bear interest at the rate of eight per cent per annum; and such interest must be added to and collected as part of the taxes, and reported in such manner as the State auditor may prescribe.

Interest.

2174. (4009) (538) *Receipt of collector to taxpayers.*—Upon the payment of taxes, and of fees and costs, if any, assessed and charged against him, by any taxpayer, the collector shall give a receipt therefor, from the stub-book men-

Tax receipt.

tioned in the next section, showing the name of the taxpayer, the date of the payment, and stating separately the amounts of the State tax on real estate, State tax on personal property, special tax, if any, specifying the purpose for which it is levied; county tax on real estate, county tax on personal property; special county tax, if any, specifying the purpose for which it is levied, and, if any interest has accrued, stating separately the amounts thereof on State tax, special State tax, county tax, special county tax, and stating separately the amounts of assessor's and collector's fees and other costs, if any; and stating the aggregate amount of all taxes, interest, fees, and costs collected; and such receipt shall be prima facie evidence that such taxpayer has paid all his State and county taxes, for that year, on the real and personal property, and other subjects of taxation contained in his assessment list, and all fees and costs mentioned in such receipt.

Stub books.

2175. (4010) (539) *Stub-book of receipts kept by collector; delivery and production compelled by commissioners.*—The collector shall keep a stub-book, or books, of receipts for each tax year, from which all receipts given to taxpayers must be taken; and upon payment by any taxpayers, the collector shall enter on the stub from which the receipt is taken the name of such taxpayer, the date of payment, and the several amounts of taxes, interest, and costs, and the aggregate amount thereof, as specified in the receipt prescribed by the preceding section; and such stub and the receipt taken therefrom shall bear the same number and correspond in all respects. Such stub-book, or books, at the end of the tax year, shall be delivered by the collector to the judge of probate, and the production thereof by the collector may be compelled by the court of county commissioners, at any time before the delivery thereof to the judge of probate.

Tax sales of personal property.

2176. (4011) (540) *Sale of personal property; no redemption allowed; payment before sale.*—After the first day of January of each

year the tax collector must proceed, without delay, to levy upon any personal property of delinquent taxpayers for the payment of their taxes, and, after having first given ten days' notice of the time and place of sale, with a description of the property to be sold, by posting the same at three or more public places in the precinct of the residence of such delinquent, either at the time of assessment or of the levy, or, if he is a non-resident of the county, in the precinct in which the levy was made, he must sell the same, or so much thereof as may be necessary to satisfy the taxes, fees, and expenses of sale, including expenses of keeping the property and moving the same to place of sale, in front of the court house of the county, or at the voting place, or, in case the amount of the taxes does not exceed five dollars, at any other place in the precinct in which such notice was posted, at public outcry to the highest bidder for cash; and the property so sold shall not be subject to redemption. For making such sale the collector shall be allowed a fee of one dollar, to be collected out of the property. But such taxpayer may, at any time before the sale, pay the taxes, fees, and expenses, including the collector's fees for the sale, the same as if it had been made, and thereby discharge the levy.

2177. (4012) (541) *Application of proceeds of sale; other levies and sales authorized.*—The

proceeds arising from such sale shall be applied to the payment of the expenses of the sale, and of the taxes and fees due from such taxpayer, and any balance remaining shall be paid to the owner of the property, if present at the sale; if not present, or if present and he refuses to receive the same, the collector shall deposit such balance with the county treasurer; or, if there be no county treasurer, with the judge of probate, taking a receipt therefor, and the same shall be kept as a special fund; and whenever such owner shall apply to the collector for such balance, the collector shall deliver to him the receipt therefor, and upon presentation thereof by

Application of  
proceeds.



such owner, the officer with whom such deposit was made shall pay to him the amount expressed in the receipt. But if such excess is not called for in three years after such sale, by the person entitled to receive the same, upon the order of the commissioners' court or board of revenue, stating the case or cases in which such excess was paid, together with a description of the property sold, when sold, and the amount of such excess, the county treasurer shall pass such excess money to the credit of the general fund of the county, and make record of the same on his books, and such money shall thereafter be treated as a part of the general fund of the county.

No property  
exempt.

2178. (4013) (542) *No property exempt from sale.*—No property, whether exempt by law from taxation or not, shall be exempt from levy and sale for the payment of taxes and the fees and charges lawfully incurred in assessing and collecting the same.

Garnishment.

2179. (4014) (543) *Collection by garnishment; collector to ascertain persons indebted to taxpayer.*—If the collector ascertains, or has just cause to believe that any person is indebted to, or has in his possession, or under his control, any money, property, or choses in action belonging to any delinquent taxpayer in his county, he shall forthwith serve upon such person a notice in writing to appear before some court of the county having jurisdiction of the amount involved, naming the court, to answer as garnishee, and under oath, whether he was indebted to such taxpayer at the time of the service of the notice, or at the time of making his answer, or whether he will be indebted to him by any contract then existing, and if so, the amount of such indebtedness; and whether he has in his possession, or under his control, any and what money, property, or choses in action belonging to such taxpayer; and in such notice he shall state the amount of the taxes and fees due from such taxpayer. He shall also forthwith give such taxpayer, if in the county, written notice of the service of such gar-



nishment; and the garnishment and notice he shall, without delay, return executed to the court before which the garnishee is cited to appear. And it shall be the duty of the collector, as far as by diligent inquiry he can, to ascertain what persons are indebted to or have in their possession any money, property, or choses in action belonging to any delinquent taxpayer.

2180. (4015) (544) *Proceedings on garnishment*—Such proceedings shall be conducted in the name of the State; and if the notice served on the garnishee is returnable before a justice of the peace, the garnishee must answer within three days after service; if before the circuit court or court having like jurisdiction, he must answer within the first three days of the term next thereafter, if service was made upon him ten days before the commencement of the term; but if not, within ten days after service, if the court is in session, at the second term next thereafter; and thereupon, or in event of a failure to answer, such proceedings and judgment may be had as in cases of garnishments on judgments. Proceedings.

2181. (4016) (545) *Costs in such proceedings*.—If the garnishment is returnable before a justice of the peace, the collector shall be entitled to one dollar, and the justice to two dollars, for their services in each case; if before the circuit court, or court having like jurisdiction, the clerk and sheriff shall be entitled to the same fees as in cases of garnishments on judgments, and the collector to two dollars. Costs.

2182. (4017) *Shares in private corporations subject to levy and sale for taxes of owner; procedure*.—The shares or interests in the stock of private corporations are subject to levy and sale for the payment of all taxes assessed against the owner thereof. To accomplish such levy and sale, the tax collector shall make out and certify to the judge of probate a bill against such owner for the amount of the taxes due from him and any fees due the assessor or collector, and Sales of shares of stock.

upon the approval thereof by the judge of probate, in writing indorsed thereon, such bills shall operate as a fieri facias, and thereupon such shares and interests may be, by the tax collector or his deputy, levied upon and sold for the payment of such taxes and fees, and all costs, without having or obtaining the possession of said stock, by indorsement on the bill approved by the judge of probate, stating the number of shares or other interests on which the levy is made, and giving notice thereof to the custodian of the books of transfer of such corporation, if he be known, and reside within the State, or if he be unknown, or if he reside without the State, by posting at the courthouse door of the county, and by publication for three successive weeks, in a newspaper published at or near the principal place of business of such corporation; all transfers of the stock made in good faith, for a valuable consideration, before notice of the levy is given, are valid and operative, and must prevail over the levy. The levy and the sale thereunder may be made in the county of the residence of the taxpayer, or in the county in which the corporation has its principal place of business; and on making the sale, the tax collector must make to the purchaser a transfer in writing; and the purchaser has the right to require the proper officer to register such transfer on the books of the corporation, and, with or without such registry, is entitled to all the rights and interest of the taxpayer as whose property such stock was sold.

2183. (4018) (546) *When real estate may be sold for taxes.*—When no personal property can be found out of which the taxes of any delinquent taxpayer can be collected, or an amount insufficient to fully satisfy such taxes, the real estate of such taxpayer, or the real estate upon which such taxes are a lien, may be sold for the payment thereof, or of the balance due thereon, in the manner hereinafter in this chapter prescribed. But the failure of the tax collector to so exhaust such personal property shall not in-

Sale of real  
estate.

validate the sale of any real estate, but it shall render the tax collector and the sureties on his official bond liable for the cost, which he shall be put to in redeeming such real estate, over and above the amount of the taxes, for the collection of which the sale is made, and interest thereon provided for in case of such redemption.

2184. (4019) (547) *List of errors and insolvents and litigated taxes reported to the commissioners.*—The tax collector must, in each year, report on oath to the court of county commissioners, at the June term thereof, a list of the persons from whom the taxes assessed against them cannot be collected, with the amount of the taxes, State and county, assessed against each, which shall be termed “list of insolvents,” and a list of such persons as have been overassessed, or wrongfully assessed, with the taxes, State and county, assessed against each, which shall be termed “list of errors in assessments,” and any taxes which may be in litigation, in order that the same may be passed upon and determined by the court.

List of insol-  
vencies and er-  
rors.

As amended,  
March 4, 1903,  
p. 192.

2185. (4020) (548) *Duty of commissioners as to such lists; credits allowed collector.*—At the same term, such court shall make a careful and rigid examination of such lists, and of the facts pertaining thereto, and shall ascertain and determine what taxes contained in the list of insolvents the collector could not, by the use of due diligence, have collected, and what taxes contained in the list of errors in assessment should not have been collected by him, by reason of such errors, and shall correct such lists accordingly, and shall credit the collector with the county taxes contained in such lists as corrected; and shall ascertain what taxes are in litigation and credit the collector with the county taxes so in litigation.

Credits al-  
lowed collect-  
ors.

2186. (4021) *Presiding officer to certify lists to auditor in ten days.*—Within ten days after the adjournment of the term of the court at which such allowances were made, the presiding

Certified list.

officer of the court must certify to the State auditor, separately, the itemized lists, as ascertained and allowed by the court, of insolvent taxes, errors in assessment and taxes in litigation, showing, in each instance, the name of the taxpayer and the amounts of State taxes and special taxes charged against him; and, in the case of taxes in litigation, showing also when and in what court suit was brought; and if such lists are found to be correct, the State auditor must, upon the final settlement of the collector, allow him credit for the amounts of State taxes and special State taxes shown by such lists.

Corrected  
accounts.

2187. (4022) *New accounts to be opened against collector for insolvencies and taxes in litigation.*—Upon the allowance and credit to the tax collector of insolvent taxes and taxes in litigation, as provided in the two preceding sections, the court shall, in behalf of the county, state a new account against the collector for the amounts of insolvent county taxes and county taxes in litigation so allowed and credited; and upon allowance by the State auditor of the credits for insolvent State taxes and State taxes in litigation, as provided in the preceding section, a new account must be stated by the State auditor against the collector for the amounts of insolvent State taxes and State taxes in litigation so allowed and credited; and the collector shall remain charged with such sums until the liability is discharged, as hereinafter provided.

Lists delivered  
to collector.

2188. (4023) *Insolvent lists to be delivered to collector within twenty days from adjournment of court.*—Within twenty days after such allowances are made, the presiding officer of such court shall, from the list of insolvent taxes so allowed, make out and deliver to the collector a separate list for each precinct in the county, showing the name of each insolvent taxpayer, and the amounts of State and county taxes, and costs, if any, due from him; and such collector shall receipt for such lists.

As amended.  
March 4, 1907,  
p. 193.



2189. (4024) *Duty of collector to collect and report such insolvent taxes.*—It is the duty of the collector to proceed with all diligence to Collection. collect such insolvent taxes and to make monthly reports, payments, and settlements thereof, with the State auditor and county treasurer, as he is authorized and required to do in the collection of taxes which have not been declared insolvent; and he is entitled to the same commissions upon such insolvent taxes collected by him as are allowed by law upon the same character of taxes which have not been declared insolvent.

2190. (4025) *Collector must make final report of uncollected balances of insolvent and litigated taxes; credits therefor.*—At the June term of the court held during the year next succeeding the collector must make final report of the uncollected balance of such insolvent taxes, showing the name of every insolvent taxpayer from whom he has been unable to collect, and the amounts of State and county taxes due from him, and an itemized report of the taxes still in litigation; and thereupon, if the court is satisfied that the collector has made diligent effort to collect such taxes, the court shall make an order allowing the collector credit for such insolvent taxes as he has been unable to collect and for taxes remaining in litigation, and shall credit him with all county taxes included therein; and the presiding officer shall certify the same to the State auditor, who shall thereupon credit the collector with the State taxes included in the lists so allowed. The account for taxes remaining in litigation shall thereafter be kept in such manner as the State auditor may prescribe. Final report.

2191. (4026) *Collector must report on retiring from office; liability transferred to successor.*—If the collector, while charged with the collection of insolvent taxes and taxes in litigation, shall retire from office before the expiration of the time allowed him to make such collections, he shall make, to the next term of the court thereafter, the report required by the pre- Duty of collector retiring from office.



Successor. ceding section; whereupon allowances must be made and certified and credits entered as provided in said section; but his successor in office must be charged with the several amounts so credited to the retiring collector, and is charged with the duty of collecting, reporting, and paying the same, and making final report of uncollected balances in all respects as if no change in office had been made.

When tax-payer about to remove from county. 2192. (4027) (550) *Collection of taxes from taxpayers about to remove from county.*—It shall be the duty of the tax collector, whenever, upon information or otherwise, he has good reason to believe that any person owing taxes, whether due or not, is about to leave or remove his property from the county, and thereby the collection of such taxes is endangered, to make out and certify to the judge of probate a bill against such person for the amount of such taxes and any fees due the assessor or collector; and upon the approval thereof by the judge of probate, in writing, indorsed thereon, such bill shall operate as a writ of fieri facias, which the collector is authorized to execute by levy and sale, in the same manner as sheriffs are authorized to execute such writs when issued out of the circuit court.

When collector liable. 2193. (4028) (551) *Liability of collector when notified of person about to leave county.*—On the failure of the collector to act when notified that any person assessed is about to leave the county, he shall be liable for the amount of the taxes assessed against such person.

Collection when tax-payer has removed from county. 2194. (4029) *Collection of taxes from person who has removed from the county.*—When the collector has information that any person owing taxes in his county, whether due or not, has removed to another county, he shall make out and certify to the judge of probate a bill against such person and procure the approval thereof by the judge of probate in all respects as provided in the second preceding section, and such bill shall operate as a writ of fieri facias;

and the same may be executed by the collector, if the personal property of the taxpayer be found in his county, or may be by such collector forwarded to the collector of the county to which the taxpayer has removed, or to the collector of any county in which the taxpayer has any personal property; and the collector of such other county, on receipt of the writ, must proceed to execute the same as if issued in his county. He shall remit collections thereon to the collector sending him the writ, and is liable on his bond for any neglect of duty under this section.

2195. (4030) *Escaped taxes assessed and collected by collector; his powers in such cases.* Collection of escaped taxes.

—It is the duty of the collector, when engaged in the collection of taxes for any year, if he discovers that any person or property within his county has not been assessed by the assessor with the tax or taxes lawfully chargeable to such person or property for that year, or any preceding year, not more than five years before that time, forth-

As amended, March 5, 1901, p. 222, § 16.  
with to assess and collect the taxes due on the same, and in writing notify the assessor of the fact so discovered in order that proper assessment of unassessed taxes may be made; and the collector has the same authority to administer oaths and propound questions as the assessor has, and any party failing or refusing to answer such questions, or to give in his property, shall be liable to the same penalties as provided in cases where parties fail or refuse to give in their property to the assessor, or answer the questions required to be propounded by the assessor; provided, that in such assessments of escaped taxes, the taxpayer, on giving notice to the tax collector, shall have the right to have his assessment passed on by the court of county commissioners, and such assessments modified, allowed, or rejected, as the evidence adduced to said court shall require.

2196. (4031) *Collector must report escaped taxes to judge of probate; entry; abstract.* Report of collector.  
Whenever the collector assesses and collects any

escaped taxes, he shall forthwith report the same to the judge of probate, who shall enter such assessment in the back part of the book of assessments, and shall certify the amount collected and the items of property so assessed in the form of an abstract to the State auditor, and the collector is chargeable with the same to the amount of taxes due the State and county, respectively.

Separate  
amounts.

2197. (4032) (553) *Separate account of poll tax paid by each race kept.*—The tax collector shall keep a separate account of the amount of the poll tax paid by persons of each race in each township or separate school district.

Monthly re-  
ports of poll  
tax.

2198. (4033) *Poll tax reported and paid into State treasury monthly; duplicate reports to county and State superintendents.*—The collector must report and pay into the State treasury monthly, as other taxes are reported and paid in, all poll taxes collected by him; and he shall make a report thereof in duplicate, showing the amount due each race in each township or separate school district, one of which reports he shall furnish to the county superintendent of education of his county, and the other he shall forward to the superintendent of education.

Annual re-  
ports.

2199. (4034) *Annual consolidated report of poll tax to be made to county and State superintendents.*—The collector must, within ten days after making his final settlement with the State auditor, make, to the county superintendent and to the superintendent of education each, a consolidated report of the amount of poll tax collected by him during the year and paid into the State treasury, showing by township or other separate school district the amounts collected from each race separately.

Monthly re-  
ports.

2200. (4035) (555) *Monthly reports and payments to be made by collector.*—The tax collector, within the first three business days of November in each year, and within the first three business day of each month thereafter until he makes his final settlement for such

year, shall make, under oath, to the county treasurer, or to the judge of probate, if there be no county treasurer in the county, an itemized report in writing, a copy of which shall be, by the collector, forwarded to the State auditor, setting forth separately the taxes collected by him for the State and county during the preceding month and up to the date of such report, subsequent to his preceding report and within five days after making such report, he must pay to the State treasurer all State taxes then due from him to the State, and must then also pay to the county treasurer all county taxes then due from him to the county, by him before that time collected. The county treasurer shall give to the tax collector a receipt in duplicate for such monthly report, one of which duplicates he shall promptly forward to the State auditor by the tax collector.

2201. (4036) (556) *Monthly report by county treasurer or judge of probate.*—The officer receiving such report must, within three days thereafter, report in writing to the State auditor the amount of State taxes collected by the collector, as shown by his report; and if the collector fails to make his report within the time required by law, such officer must, within three days thereafter, report that fact to the State auditor; and the State auditor shall promptly report to the governor any failure on the part of a collector to comply with the provisions of the preceding section.

2202. (4037) (557) *Collector must account to auditor in January and April; allowance for commissions, etc.*—The tax collector must also, on or before the tenth day of January and the tenth day of April in each year, account to the State auditor, under oath, for the amount of taxes on or before the first days of January and April, respectively, by him collected for the current year, and upon such accounting, shall be allowed, by the State auditor, the amount then



due him for commissions, fees, expenses, and outlays, in the discharge of his duties, as provided by law.

Final settle-  
ment.

2203. (4038) (558) *Final settlement to be made with the auditor on or before the first day of July.*—On or before the first day of July, in each year, the tax collector must make final settlement, under oath, with the State auditor, of all matters pertaining to the office of tax collector, and pay over to the State treasurer the balance which may be found due from him for amount of taxes with which he is chargeable under the laws of the State; and at that time he must also account to the State auditor and pay over to the State treasurer all money received by him from the sale of lands and other property which may have been sold for payment of taxes, and also account to the State auditor for all the lands bought in by the State. He must also report, under oath, to the State auditor, and pay over to the State treasurer, all escaped taxes assessed and collected by him.

When final set-  
tlement to be  
made to Treas-  
urer.

2204. (4039) *Final settlement to be made with county treasurer on or before the first day of July.*—The collector must also, on or before the first day of July in each year, make final settlement, under oath, with the county treasurer for all the county taxes, which have been assessed and levied for the use of the county, and then pay over to the county treasurer the balance of the county tax due from him as such tax collector, and not paid over prior to that date, according to the tax books in the office of the judge of probate.

On death of  
collector.

2205. (4041) (561) *Settlement by personal representative on death of collector.*—On the death of any tax collector, his personal representative, general or special, must, out of the first moneys that come into his hands belonging to the estate of his decedent, and as soon as the same come into his hands, pay to the proper State and county officers the amount of public funds collected by such decedent, not paid over



by him at the time of his death, and must make settlement with such officers of any unsettled accounts of such decedent with the State and county touching the affairs of his office, as soon as practicable, and not later than the time when tax collectors are required to make final settlements.

2206. (4042) (562) *What receipts for special taxes must specify.*—Whenever any tax collector collects any special taxes, he shall specify in the receipts given to taxpayers the amount of such taxes, and the purpose for which they were levied and collected. Receipts.

2207. (4043) (563) *Special taxes; how kept and paid over.*—Such special taxes, when collected, must be paid over by him to the county treasurer, and be kept by him as a distinct fund. Special taxes.

2208. (4044) (564) *How special taxes kept and disbursed by treasurer.*—The county treasurer receiving such special taxes shall keep the same separate and distinct from all other public funds, and shall keep a separate account thereof, and shall promptly disburse the same upon orders drawn thereon by the legally authorized authority. Duty of county treasurer.

2209. (4045) (565) *How account of special taxes closed by treasurer.*—When the object for which such special taxes were levied and collected shall have been accomplished, or, for any other reason, the same are no longer required for the purpose for which they were levied, the parties charged with the administration or application thereof shall notify the treasurer, who shall thereupon close the account of such taxes, and transfer any balance remaining to the account of the general fund of the county. How accounts of special taxes closed by treasurer.

## ARTICLE X.

State Tax Commission Duties; Term of Office;  
Compensation; County Tax Commissioner.  
2210-2267.

Commission created.

2210. *Commission created.*—There is created a commission to be known as the State tax commission of Alabama.

Commission named.

2211. *Commissioners named.*—The State tax commission shall be composed of three commissioners, consisting of a chairman and two associate members, who shall be appointed by the governor and designated as chairman and associate members of the State tax commission of Alabama.

March 7, 1907,  
p. 372, §

Appointment and term of office.

2212. *Appointment and term of office of commission.*—The chairman and associate members of the commission heretofore appointed shall serve for the term to expire on the first Monday after the second Tuesday in January, 1911, when their successors shall be appointed by the governor and shall hold office for four years and until their successors are appointed and qualified.

How vacancy is filled.

2213. *Vacancy in office; how filled.*—In case of a vacancy in the commission, said vacancy shall be filled by appointment by the governor for the unexpired portion of the term in which such vacancy shall occur.

Qualification.

2214. *Qualification for office of commissioner.*—The person to be appointed as a member of the State tax commission shall be a qualified elector, known to possess high character and knowledge of the general subject of taxation and matters pertaining thereto. No person appointed as a member of said commission shall hold any other office under the government of the United States or under any other State or of this State during his term of office. Each commissioner shall devote his entire time to the duties of the office, and shall not hold any position of trust or profit, or engage in any occupation or business, the duties or conduct of which shall in-

Duties.

terfere or be inconsistent with the duties he shall assume as said commissioner under this article, or serve on or under any committee of any political party in this State or in the United States.

2215. *Special oath of commissioner.*—Each commissioner, before entering upon the discharge of the duties of his office, shall take, subscribe, and file with the secretary of State, the following special oath of office in addition to the general oath of office prescribed for public officers by the constitution of Alabama, viz.: “I, ———, do hereby solemnly swear that I will faithfully, impartially, rigidly, and truly perform all of the duties of the office of State tax commissioner, to which I have been appointed, and which I now assume, without fear or favor, bias, or thought of personal gain or advantage; but will always regard and enforce the duties and responsibilities of my office to the best and utmost of my ability, capacity, and power.” This oath shall be taken before any qualified officer authorized to administer oaths in the State of Alabama, and thereupon be filed with the secretary of State.

2216. *Salary of commissioner.*—Each of said State tax commissioners shall receive an annual salary of twenty-four hundred dollars, except the chairman of said commission, who shall receive an annual salary of three thousand dollars. Such salary shall be paid out of the State treasury in the same manner as salaries of other State officers are paid.

2217. *Meeting and sessions of commission; notice to county commissioners thereof.*—A majority of the commission must provide by resolution for regular meetings, and must meet and sit in session for the conduct of investigations and making, revising, reassessing or assessing property at the county seat of every county wherein the property affected is situated, except as to taxes levied against foreign corporations. All meetings shall be held at the capitol, unless the commission, upon written petition being

Oath of commissioner.

Salary.

March 7, 1907, D. 372,

Meetings.

Notify Boards  
of Revenue or  
county com-  
missioners.

filed, shall decide otherwise, and the tax commission shall notify the boards of revenue or county commissioners of the date when they will sit or meet in the county, and such boards of revenue or county commissioners shall and must sit with and advise the tax commission as to local conditions, concerning the taxable values in the county, but this shall not apply to corporations which have assessable property located in more than one county in the State, but the county boards or commissioners shall have no vote in the determination of values.

Salary of sec-  
retary and ex-  
perts.

2218. *Secretary, engineers, and other assistants; employment and compensation of: how paid.*—The commission may appoint a secretary at a salary of not more than eighteen hundred dollars per annum, which salary shall be paid in the same manner as salaries of other State officials are paid. The commission may employ such other persons as experts, engineers, stenographers, and assistants as may be necessary to perform the duties which may be required of the State tax commission, and the commission shall fix the compensation of other persons upon the approval of the governor. The secretary of the commission shall keep full and correct minutes and records of all hearings, transactions, and proceedings of the commission, and shall perform such other duties as may be required of him by law or by the commission from time to time. The commission may make all needful rules not inconsistent with law for the orderly, efficient, and methodical performance of its duties and for conducting hearings and other proceedings before it. Any person employed by the commission as experts, stenographers, engineers, or assistants, shall be paid out of the State treasury upon a warrant drawn by the State auditor on a certificate or voucher of the chairman of the commission approved by the governor and presented to the State treasurer, but the amount expended therefor shall not exceed three thousand dollars per annum.



2219. *Office at capitol; fixtures and supplies therefor; how furnished and paid for.*—The state tax commission shall have, maintain, and keep its office at the State capitol at Montgomery, and shall be provided with suitable rooms, necessary office furniture, supplies, stationery, books, periodicals, and maps, and all expenses of the commission incurred for such purposes in the discharge of its duties and the administration of its functions, shall be audited and paid out of the State treasury, as provided in the preceding section for the payment of employees of the commission, provided the amount expended for this purpose shall not exceed one thousand dollars per annum.

Officer fixtures, etc.

March 7, 1907,  
p. 372.

2220. *Expenses of commission; secretary, and other assistants; how paid.*—The commissioners, the secretary of the commission, and all stenographers, engineers, experts, and assistants, who may be employed by the commission, shall be entitled to receive their actual necessary expenses while traveling or acting on the business of the commission, not exceeding five thousand dollars per annum, and such expenses shall be itemized and sworn to by the person who incurs the same, and shall be approved by the chairman of the commission, or by a majority of the members thereof, and shall be paid out of the State treasury, as provided in section 2218 of this article for the payment of the salaries and expenses of the commission.

Expenses of commission.

2221. *Employes subject to commission, and removal by.*—All employes of the commission shall be subject to the orders of the commission, and may be removed by order of the commission for cause satisfactory to said commission.

Employes may be removed by commission

2222. *Limits of appropriation for expenses, etc.*—The entire appropriation for the commission, together with every item of expense allowed therefor, shall not exceed in any one year the total sum of twenty-five thousand dollars, which sum, or as much thereof as may be necessary, is hereby appropriated annually.

Appropriation for expenses.



Powers, authority and duty of commission.

2223. *Powers, authority, and duty of commission.*—It shall be the duty of said tax commission and it shall have power and authority—

March 7, 1907,  
p. 372,

Supervision over assessment and collection of taxes.

1. To have and exercise general and complete supervision over the assessment and collection of taxes and the enforcement of the tax laws of the State, and over the several county tax assessors, tax collectors, and county tax commissioners in the several counties of the State charged with the duties of assessing or collecting escaped, delinquent, and back taxes and licenses in the several counties of the State and over each and every State and county official charged with the duty of assessing, collecting, or enforcing the payment of taxes, and licenses, to the State or to any county in the State, to the end that all assessments on property, privileges, and franchises in the State shall be made in exact proportion to the just and true value thereof in substantial compliance with the law.

2. To confer with, advise, and direct all assessors, collectors of State and county taxes, and county tax commissioners, as to their duty under the laws of this State.

As to enforcement of law.

3. To direct actions, prosecutions, and proceedings to be instituted to enforce the laws of this State relating to penalties, forfeitures, liabilities, and punishment of public officers and officers or agents or corporations, companies, or association, or persons, for failure to neglect or comply with the provisions of the law governing the return, assessment, and taxation of property, privileges, and franchises in this State, and to cause complaints, information, action, or prosecutions to be made or instituted against any tax assessor or tax collector in the proper court, or to the proper judge of any court, for the removal from office of such officers for official misconduct or neglect of duty.

As to prosecution.

4. To require county or circuit solicitors, and the attorney-general of the State, to commence and prosecute actions, proceedings, and prosecutions for penalties, forfeitures, impeachments,

and punishments for violation of the laws of the State in respect to the assessments and collection of taxes and the enforcement of taxation of property, privileges, and franchises, subject to taxation, within the respective jurisdiction or spheres of official duty of said officers.

5. To require any county officer or other public officer in the State to report information as to the assessment of property, collection of taxes, receipts from licenses, and other sources, methods of taxation, values of franchises or intangible property or assets, subject to taxation, and such other information as may be needful in the work of the State tax commission, in such form and upon such blanks as the commission may prescribe.

6. To require individuals, partnerships, companies, associations, and corporations, and the agents, officers, and employes thereof, to furnish information concerning their capital, funded or otherwise, current assets and liabilities, value of franchises, value of property, earnings, operating and other expenses, bonds, deeds, conduct of business, and all other facts, records, papers, documents, or other information of any kind demanded which may be needful in order to enable the commission to ascertain the value and relative burden to be borne by every kind of property in this State, but where a person, partnership, corporation, company, or association is not engaged in a business which is subject to a tax on gross receipts, or on capital employed in this State, or on franchise or on intangible property, the tax commission shall not inquire into, nor shall it require information as to the liabilities, earnings, profits, and loss, expenses, or conduct of business of such persons, partnership, company, association, or corporation.

7. To summon witnesses to appear and give testimony, and to procure records, books, papers, documents, and all other information of any kind or character required relating to any matter which the commission shall have authority to

investigate and determine. The witnesses may be summoned by subpoena issued by any member of the commission, or by the secretary thereof, in the name of the commission, directed to any sheriff of Alabama, and returnable to the commission, which subpoenas may be served in like manner as subpoenas issued out of any circuit court; and the several sheriffs shall receive the same fees for subpoenas served in civil cases, or the subpoenas may be served by registered mail, addressed to the witness. In either case the subpoenas must be served at least five days previous to the time named therein for the appearance of the witness. Subpoenas duces tecum to any witness to appear and produce any records, books, papers, or other documents, may be issued and served in like manner; provided that no officer of any bank or banking institution shall be required to disclose to the tax commission or any of its agents or clerks, the deposits of its customers.

March 7, 1907,  
p. 372,

8. To cause the deposition of witnesses residing within or without the State to be taken upon such notice to the interested party, if any, as the commission may prescribe, in like manner as depositions of witnesses are taken in actions pending in the circuit court of the State, in any matter which the commission has authority to investigate or determine. The depositions shall be taken upon a commission to be issued by the State tax commission, or the secretary thereof, in the name of the commission, and returnable to the commission.

9. To visit the several counties in the State for the purpose of investigating the works and methods adopted by county assessors, collectors, county tax commissioners, or other officers or boards charged with the duty of assessing, collecting, determining, or adjusting the taxation of real and personal property in this State or in any county thereof; to examine carefully into all cases where evasions or violations of the law established for the assessment and collection of

taxes on property are alleged, complained of, or discovered, and to ascertain wherein existing laws are defective, or are improperly or negligently administered, and to report the result of the investigation and the facts ascertained to the governor from time to time when required by him.

10. To investigate the tax systems of other States; to formulate and recommend such legislation as may be deemed expedient to prevent evasions of any laws of the State relating to taxation, and to secure just and equal taxation and improvements in the system of taxation in this State.

11. To consult and confer with the governor upon the subject of taxation and the administration of the laws in relation thereto, and the progress of the work of the commission, and to furnish the governor, from time to time, such information as he may require.

12. To transmit to the governor, thirty days before the meeting of the legislature, a written report showing all the taxable property in the State and the value of the same, in tabulated form, with recommendations for improvements in the system of taxation in the State, together with recommendation of such measures as the commission may formulate for the consideration of the legislature in regard thereto.

13. To assess, or cause to be assessed by the proper officer, any property subject to taxation, and to set aside and hold for naught any valuation or assessment of property made by any county officer within this State or by any board of revenue or court of county commissioners, or by any other officers authorized to make assessments, and to reassess or revalue said property whether the original valuation or assessment be made by the property owner or by any officer of the State or of any county, or board of revenue, or court of county commissioners of the several counties in this State, unless the valuation or assessment shall have been previously in the



same tax year confirmed or determined by a court of record on appeal; and the commission may value and assess or reassess any property, tangible or intangible, subject to taxation in this State, without regard to any previous assessment or valuation, and may cause all its assessments, valuation, reassessments, or revaluation herein authorized, to be entered in the proper assessment books, or records or minutes of the several county officers, or of the appropriate boards or tribunals of this State authorized to assess property or to determine the questions of assessments and taxation.

Oath to witnesses.

March 7, 1907,  
p. 372,

Witness failing or refusing to testify or to produce books.

Evidence tending to criminate witness.

2224. *Oath to witnesses.*—Oaths to witnesses in any matter under the investigation or consideration of the commission may be administered by any member of the commission or by the secretary thereof.

2225. *Witnesses failing or refusing to testify or to produce books and records compelled so to do.*—In case any witness shall fail or refuse to testify as to or in answer to any material question, or to produce any records, books, papers, or other documents in his custody or control, when required so to do, any circuit court or other court of like jurisdiction, or any judge thereof, upon the application of any member of the commission, shall issue an attachment for such witness and compel such witness to comply with the summons or to attend before the commission and produce such books, documents, papers, or records, and to give his testimony upon such matters as he may be lawfully interrogated about; and the court or the judge thereof, may punish such witness for contempt, as in cases of disobedience of a like subpoena issued from such court for the refusal to testify in any cause pending therein.

2226. *Evidence tending to criminate witness; how provided against.*—No witness shall be excluded from attending or testifying, or from producing books, papers, records, accounts, and other documents before the commission, or in obe-



dience to the subpoena issued by or in the name of the commission or any member thereof, on the ground or for the reason that the testimony, or evidence, documentary or otherwise, required of him, may tend to criminate him or subject him to a penalty or a forfeiture. But no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence documentary or otherwise, before the commission, or in obedience to its subpoena; but no person so testifying shall be exempt from prosecution and punishment for perjury committed in so testifying.

2227. *Fees, mileage, and compensation of witnesses.*—Every witness who shall appear before the commission by its orders shall receive for his attendance the fees and mileage allowed by law <sup>Compensation or witnesses.</sup> for witnesses in civil cases in courts of record, which shall be audited and paid by the State in the same manner as other expenses of the commission are audited and paid, upon the presentation of proper vouchers sworn to by such witness and approved by the chairman of the commission; but witnesses summoned by parties other than the commission shall be paid by the party or parties causing the witnesses to be summoned.

2228. *Thirty days' notice given to owner of re-assessment; how served or given.*—In every case where the State tax commission shall re-value or re-assess any property which has been previously valued or assessed for the same year by the county tax commissioner or the board of revenue or the court of county commissioners of the county in which the property is situated or subject to taxation, thirty days' notice shall first be given to the owner, or reputed owner of the property before such assessment is entered of record on the assessment books or rolls, by personal notice or notice left at his dwelling or by registered mail, and such notice shall describe the property and the assessment or valuation fixed by the commission and

March 7, 1907,  
p. 372,

Notice.

notify the owners to appear at a time specified therein before the commission at the courthouse of the county in which the property is situated and show cause why the assessment or re-assessment should not be made.

2229. *Appeal by owner from judgments or assessments.*—From the final determination or judgment of the commission as to said assessment or re-assessment the owner of the property may appeal within thirty days to the circuit court or court of like jurisdiction of the county in which said property is subject to taxation. The case on appeal shall be tried de novo, and shall have precedence over any other case.

2230. *Appeals to supreme court.*—From the judgment of the trial court an appeal may be taken by either party to the supreme court within sixty days from the rendition of the judgment.

2231. *Fees of witnesses.*—If the State is unsuccessful the defendant's witnesses, not to exceed five in number, shall receive the fees and mileage allowed by law for witnesses in civil cases in courts of record, which shall be audited and paid by the State in the same manner as other expenses of the commission are audited and paid, upon proper vouchers sworn to by the witness and presented to the chairman of the commission.

2232. *Assessment once fixed property assessed at no less valuation.*—When any assessment has been made or valuation fixed by the tax commission, or by the judgment of any court of record, the property so assessed shall not be assessed at any less valuation, or for any less amount, for any succeeding year, if the property shall remain substantially in the same condition as to improvements, except by consent of the State tax commission.

2233. *Conclusiveness of findings, judgments, assessments, etc.*—The findings, judgments, assessments, valuations, and orders of the tax commission shall be conclusive upon every public officer in the State of Alabama who is now or

may hereafter be charged with the duty of assessing or collecting taxes, or enforcing the assessment or collection of the same, and upon every person, partnership, association, company, or corporation interested therein, and upon any property, privilege, or franchise of any person, partnership, association, company, or corporation unless and until the findings, judgments, assessments, valuations, or orders shall be corrected, reversed, altered, changed, set aside, or restrained by decree or judgment of a court of competent jurisdiction and power.

2234. *Appeals from judgments, etc., operate as supersedeas.*—In case of an appeal from any finding, judgment, assessment, valuation, and orders of the State tax commission, the appeal shall operate as a supersedeas of said finding, judgment, assessment, valuation, and orders of the State tax commission.

2235. *Record of proceeding; publication and circulation of.*—The commission shall require the secretary to keep on file in his office as a public record the orders and proceedings of the commission, and the commission shall, upon the approval of the governor, print and cause to be circulated from time to time such information as to its proceedings and the general matter of taxation in this State as it may deem proper and useful, and the expenses of publication and circulation shall be paid out of the State treasury in the manner provided in this article as to other expenses incurred by it.

2236. *County tax commissioners; appointment of.*—The State tax commission shall appoint, with the approval of the governor, one county tax commissioner for every county of this State. Provided, however, that the present county tax commissioners shall be continued in office for the term for which they were appointed unless sooner removed in the manner herein provided.

March 7, 1907,  
p. 372

Appeal from  
judgment.

Public record.

Appoint-  
ment of coun-  
ty tax com-  
missioner.

Vacancy in county tax commissioner's office. 2237. *County tax commissioner; vacancy in office; how filled.*—In case of any vacancy in the office of county tax commissioner the vacancy shall be filled by appointment by the State tax commission for the unexpired term, with the approval of the governor.

Removal of county tax commissioner. 2238. *County tax commissioner; removal of.*—Any county tax commissioner may be removed by the governor at his discretion, or by the State tax commission, with the approval of the governor, for inefficiency or malfeasance in office, and of the sufficiency of the ground or cause of removal the governor shall be the sole judge.

Duties of county tax commissioner. 2239. *County tax commissioner; powers and duties of.*—The county tax commissioners shall have and exercise all the powers which are now conferred or which may hereafter be conferred upon them by law.

March 7, 1907,  
p. 372, § 13.

Duties of attorney-general, solicitors, etc. 2240. *Attorney general; solicitor, and duties as to.*—The attorney-general and the various solicitors of the State, when requested by the State tax commission, shall represent the commission and the State in any and all legal proceedings instituted by or against it, and institute any legal proceedings which the commission may request or deem necessary to enforce the provisions of this article, or to compel obedience to or observance of the same, by any person, partnership, association, company, or corporation upon whom such obedience is herein imposed; to represent the State at any hearing before the commission.

Special counsel. 2241. *Special counsel employed by the governor.*—The governor may employ any special counsel to institute or defend such legal proceedings, or to assist the attorney-general therein, and to contract with said special counsel concerning a reasonable compensation for his or their services, which compensation shall be paid out of the State treasury on a warrant drawn by the State auditor on the State treasurer, upon the approval of the governor.



2242. *Compensation of tax commissioners.*—Compensation.  
 No salaries or fees shall be paid to county tax commissioners out of the treasury of the State Feb. 21, 1899, or counties, but their compensation shall be allowed to them out of escaped, delinquent, and back taxes, licenses, or penalties as hereinafter provided. p. 195,

2243. *County tax commissioner; bond of.*—Bond.  
 County tax commissioners shall give bond to be approved by the judges of probate of the several counties and filed with the State auditor for the faithful performance of their duties.

2244. *Special duties of county tax commissioners as to escaped and delinquent taxes.*—Duties as to escaped and delinquent back taxes, etc.  
 County tax commissioners appointed by virtue of this article, shall aid the revenue officers of the State in the collection of escaped, delinquent, back taxes and licenses, in discovering and prosecuting by civil and criminal penalties and costs, all evasions and violations of the revenue laws of this State, and in the perfecting of all tax titles made under the laws of this State. The officers designated are to be direct and special agents and attorneys of the State and counties in the enforcement of the revenue laws.

2245. *Duty as to license and privilege taxes.*—Duty as to license and privilege taxes.  
 The county tax commissioners shall scrutinize the records and stubs kept in the office of the judge of probate, and if it shall be reported to any commissioner or come to his knowledge that any person, persons, firms, or corporations have failed or refused to take out licenses as required by law, the tax commissioners shall report the same to the judges of probate, who shall forthwith cite such delinquent to appear before them and take out such license. If such delinquent shall fail or refuse to take out license, the tax commissioners shall institute or cause to be instituted criminal proceedings against such delinquent, before any court having jurisdiction of such offense. In case of emergency the tax commissioner must commence the criminal pro-



ceedings in the first place. For performing the duties required by this section the tax commissioners are entitled for each case so brought before the probate judges, to be paid by the delinquent, in addition to the license, ten per cent on the amount of the license so collected from each delinquent. And if a criminal prosecution shall be commenced, either by information or indictment, the tax commissioner shall be paid ten per cent of the penalty prescribed in such case, all costs and penalty to be paid in money, but in all proceedings under this section, the license shall not be delinquent before the fifteenth day of January of each year.

County officers must co-operate with tax commissioners.

Feb. 21, 1899,  
p. 195,

2246. *County officers must co-operate with tax commissioners and allow use and inspection of their books and offices.*—The judges of probate, the sheriff and his deputies, justices of the peace, and tax collectors and assessors, shall co-operate with county tax commissioners, and allow them full and free access at all times to all records, books, affidavits, assessments, lists, and papers in their offices, to the end that all persons, property, and occupations required by law to be licensed or taxed may be fairly, fully, and equitably assessed, and that no person, firm, or corporation may escape the just burdens of taxation.

Failure of county officers to perform duties.

2247. *County officers guilty of contempt for failure to perform duties.*—Any officer failing to perform his duty under the preceding section shall forthwith be reported by the tax commissioners to any supreme, circuit, or city court, judge or chancellor, who shall immediately issue a rule to the officer to show cause why he should not be committed to jail as for contempt. On the day fixed in the rule, if it has been served, the judge or chancellor must examine the officer, clerk, or witness, if he appears, and unless some lawful reason is shown for such default or refusal, must commit such offending person to jail until he renders the assistance, gives the information, or testifies, as required by law.

2248. *Supplemental assessments by commissioners.*—After the first Monday in May, the county tax commissioners shall make any assessments for the current year which the tax assessor may have failed to assess prior to that date, and the tax assessor shall enter said supplemental assessments so made by the tax commissioner, with the penalties, in his regular book of assessments, under the heading to be made by him, of “assessments by tax commissioner,” which said assessments so made in the original book, shall be returned by the tax assessor, with other assessments, and follow and conform with the due course of law prescribed for them.

Supplemental Assessments.

Feb. 21, 1899,  
p. 195.

2249. *Fees and compensation for supplemental assessments.*—The county tax commissioners shall be paid a fee of ten per cent on all taxes which may be collected upon the assessments made by them, to be added to such assessments as a penalty.

Fees.

2250. *Under-valuation of assessments; duties of commissioner as to.*—Whenever the tax commissioner of any county shall find or it shall otherwise come to his knowledge that any person or property has been assessed at what he considers an under-valuation, he shall make an additional assessment against such person or property and return the same to the court of county commissioners, or other court of like jurisdiction, at the next succeeding term thereof, which court shall hear such tax commissioner upon such under-valuation, and unless they are fully satisfied that such under-valuation does not exist, they shall give notice, try, and dispose of assessment as in other cases of under-valuation; provided, that no taxpayer shall be required to have the valuation of his assessed property passed upon by the board under proceedings by service of citation on him by the board more than one time during the same tax year; where any taxpayer has had the valuation of any property fixed either by agreement with the tax commissioner or by trial before the court of county com-

Duties as to undervaluation.

Sept. 30, 1903,  
p. 295.

commissioners shall attend the several terms of in the circuit court, in that event the valuation so fixed shall be the valuation of the property so valued for the succeeding tax year; provided, that the property remain substantially in the same condition as to improvements, unless otherwise ordered and directed by the State board of assessment.

Fees.

2251. *Fees and compensation as to under-valuation assessments.*—County tax commissioners shall receive ten per cent of the tax arising from such additional assessments.

Appeals.

2252. *Appeals.*—Tax commissioners and taxpayers may appeal within thirty days to the circuit court, or court of like jurisdiction, from the order of the board.

Oath.

2253. *Commissioners; powers of to administer oath; question witnesses.*—In the assessment of supplemental, back, or escaped taxes, as provided in this article, tax commissioners shall have the same authority to administer oaths and propound questions as the tax assessor has, and any person, firm, or corporation, or officer or agent thereof, failing or refusing to answer such questions or to give in his property, shall be liable to the same penalties as provided where persons fail or refuse to give in their property to the tax assessor, or answer the questions required to be propounded by the tax assessor.

Feb. 21, 1899,  
p. 195,

Notice.

2254. *Notice and order served by deputy.*—All notices or orders required to be served in proceedings under this article shall be served by the commissioners, or their deputies, who shall be paid the same fees therefor as are paid to tax assessors for like services.

Duties of  
county tax  
commission-  
er to attend  
court and  
make report to  
probate judge.

2255. *Duties of county tax commissioners to attend court in cases against delinquent taxpayers, to represent state, to examine tax-books, and make report to probate judge.*—The county tax commissioners shall attend the several terms of the probate court, when the cases against delinquent taxpayers are triable, and with the assistance of the tax collectors, represent the State

and county in such trials, and make the examination of the assessment of the delinquent to see that the property is properly described and assessed; and of the land-book, to see that such property is not assessed to any other person, or to owner unknown; of the books of the tax collector, to see that the taxes on said property have not been paid, and are delinquent, and that the tax collector has reported to the judge of probate that he was unable to collect the taxes assessed against such land or owner thereof, without a sale thereof; that notice to the delinquent has been made and given, and served as required by law, and carefully examine all the steps precedent and subsequent to the decree of the court, in order that a perfect and valid title may be made.

2256. *Fees and compensation as to cases tried by court.*—The county tax commissioner shall receive for each case where a decree is rendered, a fee of twenty per cent of the amount of tax for which decree is rendered, but in no case to exceed ten dollars, to be charged up as costs and collected and paid as now required by law. Fees and compensation as to cases tried by court.

2257. *Commissioners must get up evidence for State on appeals in tax proceedings.*—In cases where an appeal is taken, either in equalization or delinquent proceedings, from the commissioners or the probate court, or board of equalization, to the circuit court, or any court of the county of similar jurisdiction, the county tax commissioner shall get up evidence, and have the witnesses for the State summoned; they shall attend the trial and furnish the solicitor or counsel employed by the State with a brief of the facts and the names of the witnesses, and assist the solicitor in every way possible. Duty of commissioners on appeals in tax proceedings.

2258. *Duty of county tax commissioners to attend courts of equalization.*—The county tax commissioner shall appear before the court of county commissioners, or board of equalization, of taxes, where he shall represent the State and county in respect of all assessments made or procured by him. Attend courts of equalization. Feb. 21, 1899, p. 195.



Commissioners may assess municipalities.

2259. *Commissioners may assist municipalities.*—Any of the officers appointed by virtue of this article may assist in the collection of revenue for any municipality of this State at the request of the mayor thereof, and when so requested, shall have all the powers conferred upon the officers of such municipality, for the assessment and collection of taxes and licenses.

Escaped taxes.

2260. *Escaped taxes; duties of county tax commissioners as to.*—The county tax commissioners shall cause escaped taxes to be assessed and collected, and they shall have all the powers for the purpose of making assessments which are now given to the assessors and collectors. Whenever it shall come to the knowledge of any of the commissioners that any person or property within their respective counties has not been assessed with the taxes or tax which are lawfully chargeable to such person or property for the current year, or for any preceding year not more than five years before that time, he shall forthwith assess the same and deliver the assessment to the clerk of the court of county commissioners, or other court of like jurisdiction, unless the payer shall, upon being notified by the tax commissioner that he has made such assessment, agree with the tax commissioner upon the same, and shall pay the collector the amount of taxes and fees due by him.

Notice to owner.

2261. *Notice to owner of assessment.*—The clerk of the court of county commissioners, or other court of like jurisdiction, upon the filing of the assessment, shall issue a notice to the person who is named in the assessment as the owner of the property assessed, who is liable for the taxes shown by the assessment, if such person be a resident of the county or have residing within the county an authorized agent known to the clerk, or to the tax commissioner, giving notice to such person that the assessment has been made, and giving a description of the property which has been assessed in the assessment, and the time when the assessment will be heard and



passed upon by the court of county commissioners, or other court of like jurisdiction; and if the person named in the assessment is a non-resident of the county and his address is known to the clerk or tax commissioner, then the clerk shall mail to such person by registered mail a copy of such notice.

2262. *Notice; contents of.*—The notice required in the preceding section to be issued and served upon the person named in the assessment, shall state the amount of the proposed raise and shall be served by the tax commissioner or his deputy, who shall be paid the same fees therefor as are paid to the tax assessor for like services. Notice.

2263. *Case entered on docket by clerk of court.*—Upon the filing of such assessment the clerk shall enter the same upon the docket of the court of county commissioners, or other court of like jurisdiction, and the style of the case shall be in the name of the State of Alabama as plaintiff, and the name of such property owner or person in the assessment as defendant, and shall state a brief description of the property assessed upon said docket. Case entered on docket by clerk of court.

2264. *Case heard and determined by commissioners.*—The court of county commissioners shall, at the time specified in the notice, or at such time to which the matter may be continued by agreement of parties, or by order of the court, if service has been had ten days, proceed to hear and determine the assessment, and to confirm, modify, or reject the same as shall appear to be just, according to the laws of the State, as the evidence produced on the trial of the cause shall show to be proper. Case heard and determined by commissioners.

2265. *Fiding of court has force and effect of judgment of law, unless appealed within thirty days.*—Every assessment so passed upon by the court of county commissioners, or other court of like jurisdiction, shall be final unless re-opened and revised by order of the State tax commission, and shall have all the force and effect of a judgment at law, but either party who shall be dis- Judgment.

satisfied with the judgment and decision of the court may, within thirty days thereafter, appeal the case to the circuit court of the county or other court of like jurisdiction, as provided by law for appeals in tax cases.

Penalty of ten  
per cent.

2266. *Penalty of ten per cent added.*—If the court of county commissioners, or other court of like jurisdiction, shall confirm any such assessment and render a judgment in favor of the State thereon, there shall be added to the judgment in such cases a penalty of ten per cent of the taxes which are due to the State and county in such cases under the assessment, which penalty shall be collected by the tax collector, and shall be paid to the county tax commissioner; the amount of such judgment and the penalty shall be certified by the clerk of the court to the tax collector, but should the clerk fail to certify the amount of such penalty, then the tax collector shall add the penalty to the amount of such judgment and collect such penalty at the time that such taxes shown by such judgment are collected.

Duties of col-  
lector and pro-  
bate judge as  
to taxes col-  
lected.

Feb. 21, 1899,  
p. 195.

2267. *Taxes, when collected, reported to probate judge, and by him certified to auditor.*—All such taxes, when collected by the collector, shall be by him reported to the probate judge, and shall be by the probate judge entered in the book of assessments on file in his office in the back part thereof, under the head of "Tax Commissioners' Assessments," and the judge of probate shall certify the amount collected and the items of property assessed, in the form of an abstract to the State auditor, and the collector shall be chargeable with the same in the amount of taxes due the State and county respectively.

## ARTICLE XI.

Sale of Lands for Payment of Taxes; Docket, Notice, Decree and Conduct of Sale; Certificate and Deed to Purchaser. 2268-2299.

2268. (4046) (566) *Jurisdiction of probate court to order sale of land for taxes.*—The probate court of each county is empowered to order **the sales of lands therein for the payment of taxes** assessed on such lands, or against the owners thereof, when the tax collector shall report to the court that he was unable to collect the taxes assessed against such land, or any mineral, timber, or water right, or special right or easement therein, or the owner thereof, without a sale of such land. Jurisdiction of probate court.

2269. (4047) (567) *Docket of lands made by collector.*—It shall be the duty of the tax collector, at the expense of the county, to procure a substantially bound book, in which he shall enter, in the manner usual in docketing causes for **trial in the circuit court, each parcel of real estate, or right or interest or easement therein, assessed to any person against whom taxes have been assessed which are not paid, when a portion or all of such taxes are on such real estate, or right or interest or easement therein, describing the same in the same manner as it is described in the assessment list, and stating the amount of the unpaid taxes, penalties, fees, and charges due by such person, specifying the amount due the State, that due the county, and that due for fees and charges; and he shall, in like manner, enter in such book each parcel of real estate, or right or interest or easement therein, which has been assessed to an "owner unknown," and the amount of taxes, fees, and charges due thereon, stating in each case the fact that it was so assessed.** The description of such real estate, or right or interest or easement therein, shall be entered in alphabetical order, by precincts of the residence of the owners, if known, and they reside in Dockets of lands made by collector.

the county; but if they are unknown, or do not reside in the county, then by the precincts in which the real estate is situate.

Preparation and time of delivery of docket. 2270. (4048) (568) *Preparation of docket; time of delivery; effect of failure to deliver.*—

Such book shall be prepared in a neat and orderly manner, in a fair and legible handwriting, with sufficient space in each case to make the necessary entries, and, in other particulars, in a manner suitable for the purposes for which it is to be used; and if it is not thus prepared, the judge of probate shall cause it to be so prepared, at the expense of the collector, and the cost thereof shall be deducted from his compensation. Such book shall be delivered to the judge of probate on or before the first day of March; but if, from any cause, there has been a failure to deliver the same by that time, it may be delivered thereafter.

Notice. 2271. (4049) (569) *Notices issued to persons assessed; form of.*—On receiving such book, and as speedily as practicable, the judge of probate shall issue a notice addressed to each person against whom any unpaid taxes are assessed, as shown by such book, substantially in the following form:

“The State of Alabama, }  
                                   \_\_\_\_\_ county. }

“To \_\_\_\_\_: The tax collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due. You are reported as delinquent, and the following real estate is reported as assessed to you, to-wit: (Here insert description.) This is to notify you to appear before the probate court of said county, at the next term thereof, commencing on Monday, the \_\_\_\_\_ day of \_\_\_\_\_, then and there to show cause, if any you have, why a decree for the sale of said real estate should not be made for the payment of the taxes assessed against you, and fees and costs.

“\_\_\_\_\_, Judge of Probate.”

2272. (4050) (570) *Service of notice; how made and returned.*—Such notice must be served by the tax collector, or his deputy, by handing a copy thereof to the party to whom it is addressed, or his agent, or by leaving a copy thereof at the residence or place of business of such party, or his agent; and, with his indorsement thereon, showing how and when served, showing his reasons for not serving the same; it must be by the collector, or his deputy, returned into court on or before the first day of the next term thereof. If the party against whom such assessment was made has since died, and letters testamentary or of administration have been granted upon his estate, such notice must, in like manner, be served on his personal representative, if a resident of the county. If the property or other subjects embraced in any assessment were returned or listed by a guardian, or other person, for a minor, or person of unsound mind, or by a trustee for his cestui que trust, except husband for wife, or by a personal representative for the estate of any deceased person, or by a public officer, receiver, or appointee of any court, such notice must, in like manner, be served on the party making the return, or his successor, and also by publication or posting, as provided in the next succeeding section; and the book, to be prepared and delivered to the judge of probate by the collector, must show, in each case, by whom such returns were made.

2273. (4051) (571) *Notice by publication or posting; when given.*—If the person against whom such assessment was made is a non-resident of the county, and has no agent therein known to the tax collector, or if he has died since making the return and there is no executor or administrator of his estate residing in the county, such notice may be given by publishing the same in a newspaper published in the county, or, if no newspaper is published therein, by posting the same at the courthouse of the county for three weeks.

Service of notice.

Publication of notice.



Owner un-  
known.

2274. (4052) (572) *Notice when lands assessed to "owner unknown;" form of, and how given.*—When any assessment is made to an "owner unknown," notice must be given by publication once a week for three successive weeks, in a newspaper published in the county, or, if no newspaper is published therein, by posting the same at the courthouse of the county, for three weeks, substantially in the following form:

"The State of Alabama, }  
——— county. }

"To whom it may concern: Take notice that the tax collector has filed in my office a list of delinquent taxpayers, and of real estate upon which taxes are due; and therein is reported as assessed to 'owner unknown' the following real estate, to-wit: (Here insert descriptions). This is to notify you to appear before the probate court of this county, at the next term thereof, commencing on Monday, the —— day of——, then and there to show cause, if any you have, why a decree for the sale of said real estate should not be made for the payment of the taxes assessed upon the same, fees and costs.

"———, Judge of Probate."

In answer to such notice, any person having an interest in or claim to such real estate, may appear and defend against the proceedings seeking to condemn the same to sale for the payment of the taxes assessed thereon. When practicable, all real estate, so assessed for any one year, must be incorporated in one notice, a separate paragraph only, in addition to the caption and conclusion, being given to the description of the real estate embraced in each assessment.

Publication.

2275. (4053) *Publication, rate, control, etc.*—The publication of notices under the three preceding sections is governed by the provisions of this article relating to the publication of notices of sales of land, so far as the same may be applicable; and the tax collector may select the newspaper in which any notice under this article shall be given.

2276. (4054) (574) *Trial-term when service not made in time; issue of notices; continuances.*

—If the service of notice is perfected before the commencement of the term to which it is return-<sup>Serving notice.</sup>able, but not in time for trial at such term, the cause shall stand for trial at the next succeeding term. If any notice is returned not served, other notices may be issued returnable to other terms of the court until service has been had; and if two notices to the same person are returned not served, notice by publication or posting may be given as in case of non-residence. For good and sufficient reason made known to the court, any cause may be continued from term to term.

2277. (4055) (575) *Collector to attend court, his book of evidence.*—It shall be the duty of the tax collector to attend at the several terms of the probate court, at which any of such causes are triable, and to have with him his tax-book; and such tax-book shall, in all cases, be accepted as prima facie evidence of the amount of taxes and fees due, and that the same have been properly assessed and charged, and are unpaid.<sup>Trials.</sup>

2278. (4056) (573) *Decree of sale.*—If service of such notice is perfected ten days before the commencement of the term to which the same<sup>Decree of sale.</sup> is returnable, the cause shall stand for trial at such term; and if no defense is interposed, or, if interposed, and on the trial thereof the same is adjudged insufficient in law, or is not sustained by the evidence adduced, the probate court shall make and enter on such book or docket a decree of sale., substantially in the following form:

“It appearing to the court that taxes have been assessed against the person mentioned in this cause (or, if the assessment is to an ‘owner unknown,’ that taxes have been assessed on the real estate mentioned in this cause), to the amount of ——— dollars for the year———, and that the same are still due and unpaid; and it further appearing that notice of this proceeding has

been given as required by law, and no valid defense has been interposed against the sale of such real estate for the payment of the taxes. It is, therefore, ordered, decreed, and adjudged by the court, that the State of Alabama has a lien for the payment of said amount, and for the additional sum of ———— dollars for fees, charges, and costs in this behalf lawfully incurred, on the following described real estate, to-wit: (Here insert description). It is further ordered, adjudged, and decreed by the court that said real estate, or so much thereof as may be necessary, be sold for the payment of said delinquent taxes, and of said fees, charges, and costs, and of the expenses of such sale."

Such decree, when entered, shall be signed by the judge of probate, and shall have, when jurisdiction of the court is shown, the effect of judgments in other cases.

2279. (4057) (576) *Sales under decrees; notice of sale.*—Immediately at the end of any term of court at which any decree for sales of real estate for the payment of taxes are rendered, or as soon thereafter as practicable, the tax collector shall proceed to enforce such decrees by sales of real estate ordered to be sold; and to this end he shall give notice for thirty days before the day of sale, by publication for three successive weeks in some newspaper published in the county, and at least three weeks before the day of sale shall post a notice at the courthouse in his county, and at some public place in the precinct in which the real estate is situated, that at the time specified therein he will proceed to sell such real estate separately, describing such portions as are embraced in each decree, and stating the amount for which each decree was rendered (without stating the items of which said decree is composed), and the person against whom the taxes embraced in such decree were assessed, or if assessed to owner unknown, stating that fact. The rate to be charged for publishing such notice in a newspaper shall not ex-

Notice of sale.

Feb. 23, 1899.  
p. 53, § 1.

Rate for advertising.

ceed one and one-half cents per word for the first insertion, and one cent per word for each subsequent insertion; but no allowance shall be made for the publication of any matter other than is required by law; and if no newspaper is published in the county, or if the publication of the notice cannot be had in the county at the above rate, the posting of the notice at the courthouse and at a public place in the precinct in which the real estate is situated, as required by this section, shall be sufficient notice of such sale.

2280. (4058) (583) *Abbreviations in advertisements and entries authorized.*—In all advertisements and notices of the proceedings in the probaté court for the sale of the lands for taxes, and of such sales, and in all entries required to be made by the judge of probate, tax collector, or other officer, initial letters, abbreviations, and figures may be used to indicate townships, ranges, sections, parts of sections, blocks, and lots, and dates and amounts; and in estimating the costs of publication, each amount, date, or number, and each initial letter or abbreviation, shall be counted as a word. What counts  
as a word.

2281. (4059) (577) *Time and place of sale; judge of probate attends sales and makes record thereof.*—Such sales shall be made in front of the door of the courthouse of the county, at public outcry, to the highest bidder, for cash, between the hours of ten in the morning and four in the afternoon, and shall continue from day to day until all the real estate embraced in the decrees has been sold. The judge of probate must attend such sales, and make a record thereof in a book to be kept by him in his office for that purpose, in which he shall describe each parcel of real estate sold, and state to whom sold, the price paid by the purchaser, the date of sale, and, if no sale was effected, stating that fact, and the reason thereof, and also, in separate columns, the amounts, as taken from the book or docket in which the decrees are entered, of each kind of tax, penalties, and of the fees and costs in Record of sales  
by judge of  
probate.



each case; and he must also enter in such docket, in each case, the land sold under the decree in that case, the purchaser thereof, and the amount at which it was sold.

Quantity to be sold. 2282. (4060) (578) *How real estate offered for sale; minimum price.*—It shall be the duty of the tax collector, in making such sales, if practicable, to so far offer such real estate for sale that only such portion thereof may be sold as is necessary to satisfy the decree under which it is sold, and the expenses of the sale; but no sale shall be made for a sum less than the amount of such decree and expenses.

Payment at sale. 2238. (4061) (579) *Second sale on failure of bidder to pay.*—The person to whom any real estate at such sale is knocked off shall forthwith pay to the collector the amount of his bid, and, on his failure to do so, the collector must proceed at once to again offer it for sale.

Bid in for State. 2284. (4062) (580) *When real estate bid in for State.*—If no person shall bid for any real estate offered at such sale an amount sufficient to pay the sum specified in the decree for sale, and the costs and expenses subsequently accruing, the judge of probate shall bid in such real estate for the State, at a price not exceeding the sum specified in such decree and such subsequently accruing costs and expenses.

Certificate of purchaser. 2285. (4063) (581) *Certificate to purchaser; contents.*—As soon after the sale as practicable, the tax collector must make out and deliver to each purchaser, other than the State, a certificate of purchase, which shall contain a description of the real estate sold, and show that the same was assessed by the assessor, to whom assessed, the date of assessment, for what year or years the taxes were due, the amount of taxes due thereon, distinguishing the amounts due the State and county, and for school purposes, and the fees and costs; that it was advertised and how long, and that it was offered for sale, and at what time, and who became the purchaser, and at what price.



2286. (4064) (582) *Certificate of purchase to State; lands bid in not thereafter assessed.*—

For the real estate bid off for the State, in each case, the judge of probate shall make out a certificate of purchase to the State, of like import to the one provided for in the preceding section, and deliver the same to the tax collector, who shall, on final settlement, deliver all certificates received by him from the judge of probate to the State auditor, who shall cause the same to be recorded in a book kept in his office for that purpose, and properly indexed for convenient reference; and such proceedings shall operate as a due and regular assessment. Lands bid in for the State shall not be thereafter assessed, except as hereinafter provided, until the same have been redeemed from or sold by the State.

When bid in  
for State.

2287. (4065) (584) *Advertisements of sale; what part paid by State.*—The cost of advertising the caption and conclusion of notices for the

sale of real estate for the payment of taxes, and so much thereof as pertain to those portions of such real estate as are bid off for the State, must be paid by the State; and the State auditor shall, after every such sale, and after the collector has filed with the State auditor the certificates of sales and purchases by the State, as provided in the preceding section, audit the account of the owner or proprietor of the newspaper in which such notices were published, and shall draw his warrant on the State treasurer in favor of such owner or proprietor for the amount he may find to be lawfully due him, and payable by the State, and the treasurer shall pay the same; but the State shall pay no other costs attending any tax sale.

Part of advertisement paid  
for by State.

2288. (4066) (585) *What portion of such advertisement payable by collector.*—The cost of

advertising the part of such notices pertaining to lands purchased by others than the State shall be covered by the bids of the purchaser, and collected by the collector as part of the purchase money, but for the use of the owner or proprie-

Part paid for  
by collector.

tor of the newspaper in which such notices were published, and by the collector paid over to him on demand; and for such portions of such costs, as well as for the cost of advertising lands inserted in the notice by the mistake of the collector, such collector and the sureties on his official bond shall be liable to the owner or proprietor or such newspaper.

Certificates assignable.

2289. (4067) (586) *Certificate of purchase assignable*.—The certificate of purchase, delivered by the tax collector to a purchaser at such sale, is assignable in writing or by indorsement; and an assignment thereof vests in the assignee, and his legal representatives, all the right and title of the original purchaser.

Officers can not purchase.

2290. (4068) (587) *Officers forbidden to purchase at sale; penalty; sale void*.—If the assessor, collector, judge of probate, or other presiding officer of the court of county commissioners shall, directly or indirectly, be concerned or interested in the purchase of any real estate sold for taxes, the sale shall be void, and he and his sureties on his official bond, shall be liable to a penalty of not exceeding five hundred dollars, to be fixed by the jury, which may be recovered in an action in the circuit court, or court of like jurisdiction, brought on the relation of any taxpayer of the county, in the name of the State, one-half of the amount recovered to be paid to the relator, and the other half to the State.

Appeals.

2291. (4069) (588) *Appeal from decree of sale, and proceedings thereon*.—From any decree rendered by the probate court for the sale of real estate for the payment of taxes, the defendant in the cause, or the State, in behalf of itself and the county, may appeal to the next term of the circuit court, or court having like jurisdiction, of the county, within thirty days after the rendition of the decree. If the defendant appeals, he must execute a bond in double the amount of the decree, payable to the State of Alabama, with sufficient surety, to be approved by the judge of probate, and conditioned that he will

prosecute the appeal to effect, and pay such judgment as the appellate court may render thereon; but the State shall not be required to execute any bond. The solicitor of the circuit or county shall represent the State on such appeal and of the pendency thereof the judge of probate must give him notice in writing; and on appeal by the State, notice thereof shall be given the defendant, as in other cases of appeal from that court to the circuit court. Such appeal must be tried *de novo*, upon a issue made up under the direction of the court. If the defendant appeals, and the issue is decided adversely to him, the court must render judgment against him and his sureties in favor of the State for the amount of the taxes, fees, and costs, besides the costs of the appeal; and such judgment shall be a lien upon the lands described in the decree from which the appeal was taken, which lien, with a description of the lands, must be declared in the judgment.

2292. (4070) (589) *Disposition of money collected on judgment.*—Any money collected on such judgment, except for costs of court, must be paid to the tax collector, who shall account for and pay the same over to the officers and persons entitled to receive the same. Disposition of money.

2293. (4071) (590) *Fees and costs.*—For each notice to a delinquent landowner to show cause why a decree of sale should not be rendered, the judge of probate is entitled to a fee of fifty cents, and for each decree of sale, fifty cents; the tax collector shall have twenty-five cents for serving each notice, but for his attendance at court he shall receive no pay; but in case of appeal, the sheriff and the clerk of the appellate court shall be entitled to the same fees as for like services in other cases. Fees and costs.

2294. (4072) (591) *Disposition of excess of purchase money; when covered into general fund of county.*—The excess arising from the sale of any real estate remaining after paying the amount of the decree of sale, and costs and expenses subsequently accruing, shall be paid over Disposition of excess.

to the owner, or his agent, or to the person legally representing such owner, or into the county treasury, it may be paid therefrom to such owner, agent, or representative in the same manner as the excess arising from the sale of personal property sold for taxes is paid. If such excess is not called for within three years after such sale, by the person entitled to receive the same, upon the order of the court of county commissioners or the board of revenue, stating the case or cases in which such excess was paid, together with a description of the lands sold, when sold, and the amount of such excess, the county treasurer shall pass such excess of money to the credit of the general fund of the county, and make a record on his books of the same, and such money shall thereafter be treated as a part of the general fund of the county.

When prop-  
erty of county. 2295. (4073) *Excess may be paid to owner within five years.*—At any time within ten years after such excess has been passed to the credit of the general fund of the county as provided in the preceding section, or section 2177 (4012), the court of county commissioners or board of revenue may, on proof made by any person that he is the rightful owner of such excess of money order the payment thereof to such owner, his heir, or legal representative; but if not so ordered paid within such time, the same shall become the property of the county.

Deed. 2296. (4074) (592) *Deed to purchaser.*—After the expiration of two years from the date of the sale of any real estate for taxes, the judge of probate then in office must execute and deliver to the purchaser, other than the state, or person to whom the certificate of purchase has been assigned, upon the return of the certificate and payment of a fee of one dollar to the judge of probate, a deed to each lot or parcel of real estate sold to the purchaser, and remaining unredeemed, including therein, if desired by the purchaser, any number of parcels or lots purchased by him at such sale; and such deed shall convey to and



vest in the grantee all the right, title, interest, and estate of the person whose duty it was to pay the taxes on such real estate, and the lien and claim of the state and county thereto; but it shall not convey the right, title, or interest of any reversioner or remainderman therein.

2297. (4075) (593) *Deed to be acknowledged; effect as evidence.*—Such deed shall be signed by the judge of probate in his official capacity, and by him acknowledged before some officer authorized to take acknowledgments of deeds, and it shall be, in all the courts of the deeds, and it shall be, in all the courts of the state, prima facie evidence of the regularity of all proceedings subsequent to the judgment recited therein, in any controversy, proceeding, or suit involving or concerning the rights of the purchaser, his heirs, or assigns to the real estate thereby conveyed. Deed to be acknowledged.

2298. (4076) (594) *Forms of certificates and deeds prepared and distributed.*—The attorney-general must furnish the state auditor with suitable forms of certificates of purchase and deeds to purchasers at sales of real estate for taxes, from which the state auditor shall cause to be printed a sufficient number of blank certificates and deeds, and distribute the same among the several judges of probate, to be used by them and tax collectors on sales of lands for taxes. Form of certificates.

2299. (4077) (596) *Assessment of lands bid in by the state, and not redeemed or sold.*—It shall be the duty of the state auditor to transmit to the tax assessor of each county, by the first day of August of each year, a descriptive list of all the lands in the county reported to him as bid in for the state during the year, and not redeemed; and it shall be the duty of the assessor to present such descriptive list to the court of county commissioners at the term of such court then next ensuing; and it shall be the duty of the court of county commissioners, assisted by the assessor, to compare such list carefully with the Land bid in by State to be assessed.



record of sales of lands for taxes in the county and of the redemption thereof, and to ascertain if any of such lands have been redeemed, or were not liable for the taxes for which they were sold; and if any of such lands are ascertained to have been redeemed, or to have been sold for taxes for which they were not liable, the court of county commissioners shall promptly certify the facts to the state auditor, and shall correct the record of land sales in the probate office. The assessor shall put a fair valuation on the remainder of the lands contained in such descriptive list, and shall calculate the state and county taxes on the same, and shall enter such valuation and taxes upon such descriptive list and return the same to the state auditor, who shall thereupon and annually thereafter, until such land is redeemed, or recovered, or sold by the state, without further assessment, add the amount of the taxes so assessed on valuation to the amount for which the lands were sold; and such proceedings shall have the same effect as of a due assessment against and payment of an individual purchaser of taxes subsequent to his purchase. The assessor shall furnish to the judge of probate a copy of the list returned to the state auditor, and it shall be the duty of the judge of probate to enter the taxes therein calculated on the record of sale thereof kept in his office.

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## ARTICLE XII.

Rights and Remedies of Purchasers of Land at Tax Sales; Statute of Limitations. 2300-2312.

2300. (4078) (597) *When sale invalid, lien of state and county passes.*—When the sale of any land sold for the payment of taxes is, for any cause, ineffectual to pass the title to the purchaser, whether individual or the state, except in the cases in which such sales are in this

Purchasers  
rights.

chapter expressly declared to be invalid, such sale shall operate as an assignment to the purchaser of the rights and liens of the state and county in and to the lands sold, both as to the taxes paid by said sale and as to taxes subsequently paid by the purchaser.

2301. (4079) (598) *Liability, when land not liable is sold.*—When lands are sold for taxes which are not liable therefor, the purchaser may recover from the officer by whose fault or neglect the assessment or sale was made, and the sureties on his official bond, the amount of the purchase money paid by him therefor, with interest thereon from the day of sale. Liability of tax officers.

2302. (4080) *Liability of assessor and collector for failure of title attributable to their negligence.*—In case of the sale of any real estate, either for the collection of the taxes thereon, or for the collection of other taxes due by the owner thereof, said real estate shall be described in all the proceedings incident to the condemnation and sale thereof, and in the certificate and deed issued to the purchaser, at said sale, in the manner described in the assessment thereof, and in case of failure of the tax collector to so describe said property in any part of said proceedings, certificate, or deed, by reason of which said deed may be held insufficient to convey the property intended to be referred to, the said tax collector and the sureties on his official bond shall be liable to the purchaser at said tax sale. Should, however, the property be insufficiently described in the assessment thereof, the said tax assessor and the sureties on his official bond shall likewise be responsible to the purchaser, or in case the said liability has been enforced against said tax collector, then the said assessor and the sureties on his official bond shall be liable to the tax collector, or his sureties, for whatever sum he shall have been compelled to pay to said purchaser on account of said defect.

2303. (4081) (599) *The State or any other purchaser may bring ejectment or unlawful detainer.*—The State or any other purchaser of Ejectment.

lands at a tax sale, or any one claiming under him, may, after the expiration of six months from the day of sale, maintain an action of ejectment, or of unlawful detainer, or a statutory real action in the nature of ejectment, for the recovery of the possession of the lands purchased at such sale, and shall be entitled to hold the possession thereof, on a recovery, but subject to the right of redemption hereinafter provided for. When the State is the purchaser, the State auditor may, if in his judgment it is to the interest of the State, after the expiration of six months from the day of sale, institute legal proceedings in the name of the State to recover possession of the real estate so bid in at tax sale, and when so recovered such real estate shall stand subject to sale, or it may be rented out if the governor so directs; but if the title fails, the auditor shall direct the proceedings to ascertain and enforce the tax liens, charges, interest, and penalties for the benefit of the State, as in case of other purchasers. And the State auditor may bring the suits authorized under sections 2301 (4079), 2302 (4080), and 2304 (4082,) in proper cases.

Liability of of-  
ficers.

2304. (4082) *Liability of officers when suit by purchaser defeated by reason of failure of duty on their part.*—If in any suit brought for the possession of land sold for taxes the title of the purchaser at the tax sale shall be defeated on account of any defect in the proceedings under which the sale is had, or on account of any defect in or insufficiency of the process by which the owner of the land was brought before the probate court, as is provided, or in the service of said process, or by reason of the failure of the judge of probate on account of any negligence or refusal on his part to produce, when called upon, sufficient evidence of the proper issuance and service of said notice or process, or by reason of any other defect or insufficiency in any of the proceedings for the condemnation and sale of said property, or of the certificate or deed to said

purchaser, or any two or more of said causes, the officer or officers, on account of whose omission or error said defect or insufficiency, or defects or insufficiencies, shall have arisen, together with the sureties on the official bond, shall be liable to the purchaser whose title shall be thus defeated, and to his assignees for the full sum of the purchase money paid by him at said tax sale, for said property, the cost of the suit in which said title failed, which the purchaser shall have incurred in attempting to maintain his title under said tax sale, together with the interest upon each of these amounts, at the rate of twelve per cent per annum; provided, that suits under this section shall be commenced within five years, except as to the State, from the sale.

2305. (4083) (600) *When plaintiff recovers purchase-money, etc., though cast in suit for land.*—If, in any suit brought by the purchaser or other person claiming under him, to recover the possession of lands sold for taxes, a recovery is defeated on the ground that such sale was invalid for any other reason than that the taxes were not due, the court shall forthwith, on the motion of the plaintiff, ascertain the amount of taxes for which the lands were liable at the time of the sale, and for the payment of which they were sold, with interest thereon from the date of sale, and the amount of such taxes on the lands, if any, as the plaintiff, or the person under whom he claims, has, since such sale, lawfully paid or assumed by the State after its purchase, with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of twelve per cent per annum; and the court shall thereupon render judgment against the defendant in favor of the plaintiff for the amount ascertained, and the costs of the suit, which judgment shall constitute a lien on the lands sued for, and payment thereof may be enforced as in other cases.

2306. (4084) (601) *When defendant entitled to judgment for same, though cast in suit for land.*—If, in a suit brought against such pur-  
When defendant entitled to judgment.

chaser, or other person claiming under him, to recover possession of lands sold for taxes, the defendant claims and defends under the tax title, and his defense fails on the ground that such sale was invalid for any other reason than that the taxes were not due, and the plaintiff recovers, the court shall forthwith, on the motion of the defendant, ascertain the amount of taxes for which the lands were liable at the time of the sale, and for the payment of which they were sold, with interest thereon from the day of sale, and the amount of such taxes on the lands, if any, as the defendant, or the person under whom he claims, has, since such sale, lawfully paid or assumed, in case of the State; with interest thereon from the date of such payment, the interest on both amounts to be computed at the rate of twelve per cent per annum; and the court shall thereupon render judgment against the plaintiff in favor of the defendant for the amount ascertained, and the costs of the suit, which judgment shall constitute a lien on the land sued for, the payment of which may be enforced as in other cases, and no writ of possession shall issue until such judgment has been satisfied.

When costs  
shall not be re-  
covered.

2307. (4085) (602) *Tender by party claiming adversely to tax title, and effect thereof.*—In any suit under the provisions of either of the last two preceding sections, the party claiming adversely to the tax title may, at any time, tender the amounts required in such sections to be ascertained by the court, with interest as therein prescribed; and no costs accruing after such tender shall be recovered of him, if, upon a refusal of the tender, he shall pay such amounts into court.

Pleadings.

2308. (4086) (603) *Statement of claims under tax title made in pleadings.*—In a suit brought to recover the possession of lands, if either party claims under a tax title, he must, in order to entitle himself to the benefits of the three preceding sections, state in his complaint or plea, that he claims or defends, as the case



may be, under a tax sale, giving the date of such sale; and such statement shall be a sufficient averment of the facts necessary to entitle him to such benefits.

2309. (4087) (604) *Effect of redemption or tender in suit by party claiming under tax title.* Effect of redemption under tax title.  
—If, in any suit brought to recover the possession of lands sold for taxes, by or against the purchaser, or other person claiming under him, it is shown that the party claiming adversely to the tax title, being entitled to redeem, made within the time allowed for redemption the payment required by law for the redemption of such lands, or made tender thereof, and the amount if not separately assessed as ascertained by the judge of probate, bears to the value of the whole of the lands included in the decree; and, in addition thereto, such applicant must deposit the amount of all costs to officers which may have accrued upon such assessment and sale.

2310. (4088) (605) *Books, etc., of judge of probate and collector as evidence.* Evidence.  
—Unless otherwise provided, on the trial of any issue involving the sale of real estate for taxes, or the redemption thereof, the books and records belonging to the office of the judge of probate or tax collector, and required by law to be kept, or certified copies therefrom, shall be prima facie evidence of the facts stated therein.

2311. (4089) (606) *Statute of limitations as to recovery of lands sold for taxes.* Statute of limitations.  
—No action for the recovery of real estate sold for the payment of taxes shall lie, unless the same is brought within three years from the date when the purchaser became entitled to demand a deed therefor; but if the owner of such real estate was, at the time of such sale, under the age of twenty-one years, or insane, he, his heirs, or legal representatives, shall be allowed three years after such disability is removed to bring suit for the recovery thereof; but this section shall not apply to any action brought by the State; provided, however, that the provisions of this section shall

of which such real estate was sold, prior to such sale; nor shall they apply to cases in which the real estate sold was not, at the time of the assessment, or the sale, subject to taxation.

Conditional  
judgment.

2312. *Ascertainment of amount of taxes paid and twenty-five per cent per annum; conditional judgment in such case.*—When the suit is against the person against whom the taxes were assessed, or the owner of the land at the time of the sale, his heir, devisee, vendee, or mortgagee, the court shall, on motion of the defendant, made at any time before the day set for trial of the cause, ascertain the amount paid by the purchaser at the sale and of the taxes subsequently paid by the purchaser, together with twenty-five per cent per annum thereon and a reasonable attorney's fee for the plaintiff's attorney for bringing the suit, and shall enter judgment for the amount so ascertained in favor of the plaintiff against the defendant, and the judgment shall be a lien on the land sued for. Upon the payment into court of the amount of the judgment and costs, the court shall enter judgment for the defendant and for the land and all title and interest in the land shall, by such judgment, be divested out of the owner of the tax deed.

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### ARTICLE XIII.

Redemption of Lands Sold for Taxes; Sales by the State. 2313-2328.

Time allowed  
to redeem.

2313. (4090) (607) *Persons entitled to, and time allowed for redemption.*—Real estate sold for taxes and bid off by the State may be redeemed at any time before the title passes out of the State, or if purchased by any other purchaser, may be redeemed at any time within two years from the date of the sale, by the owner, his heirs, or personal representative, or by any mortgagee or purchaser of such lands, or any part thereof,

or by any person having an interest therein, or in any part thereof, legal or equitable, in severalty or as tenant in common, including a judgment creditor, or other creditor having a lien thereon, or any part thereof; and an infant or insane person entitled to redeem at any time before the expiration of two years from the sale, may redeem at any time within one year after the removal of his disability; and such redemption may be of any part of the lands so sold, which includes the whole of the interest of the redemptioner.

2314. (4091) (608) *Mode and terms of redemption.*—To obtain such redemption, the party entitled thereto must deposit with the judge of probate of the county in which the land is situate the amount of money for which the lands were sold, with interest thereon at the rate of fifteen per cent per annum; all taxes which have been or should have been assessed against the land since the day of sale, if bid in for the State, such taxes as should have been assessed if the land had been in the possession of any citizen, with interest thereon at the rate of eight per cent per annum, and all costs to officers that may have legally accrued, unless such taxes and costs have been already paid by him, which may be shown by the receipt of the tax collector, and one dollar to the judge of probate as his fee upon such redemption; and if the redemption is by a mortgagee, or other creditor entitled to redeem, or by any other person having an interest, but not the legal title, he shall have a lien on the lands for the money expended by him in effecting the same; and if by a tenant in common, he shall have a like lien on the interest of his co-tenant.

2315. (4092) *When distinct lot or parcel sold with other lands may be separately redeemed.*—Distinct lot. When distinct lots or parcels of land have been included in one assessment and sold for taxes under one decree, any person, other than the person against whom the decree was rendered, whose interest in one or more of such lots or parcels is

such as to entitle him to redeem, but who has no interest in the other lots or parcels sold under such decree, may redeem the lots or parcels in which he has such interest, without those in which he has no interest.

Application.

2316. (4093) *Application under oath to be filed with the judge of probate; contents.*—A person desiring to redeem any separate lot or parcel of land, as authorized by the preceding section, must file with the judge of probate application in writing, under oath, setting forth the date of the decree, the name of the defaulting taxpayer against whom the same was rendered, the description and character of each lot or parcel of land included in the decree and the assessed value thereof, if separately valued in the assessment, or, if not separately valued, stating that fact and stating the assessed value of the whole of the lands, a description of the lot or parcel which the applicant seeks to redeem, and, if not separately valued in the assessment, stating the value thereof at the time of the assessment, the nature of his interest in such lot or parcel, and that he has no other interest in the other lots or parcels; and such applicant must deposit with the judge of probate a sum of money which bears the same proportion to the amount of taxes and interest which would be required to redeem all the lands included in the decree, that the value of such lot or parcel as separately assessed or or if not separately assessed as ascertained by the judge of probate, bears to the value of the whole of the lands included in the decree; and, in addition thereto, such applicant must deposit the amount of all costs to officers which may have accrued upon such assessment and sale.

Submitted to auditor.

2317. (4094) *Application to redeem separate lot or parcel must be submitted to the auditor for approval.*—The judge of probate must, before allowing the redemption of a separate lot or parcel of land under the two preceding sections, submit the application, together with a copy of the statement or calculation ascertaining the amount to be paid on such redemption, to the

State auditor for his approval, and the auditor may call upon the judge of probate or the assessor or the collector for any information he may desire touching the application. If the State auditor is satisfied that the applicant is entitled to redeem such lot or parcel of land, and that the proper amount of money has been deposited with the judge of probate, the State auditor shall indorse his approval upon the application and return the same to the judge of probate, who must allow the redemption; but without the approval of the State auditor, the judge of probate must not allow the redemption, and must return to the applicant the money deposited by him for that purpose. When such application is made within the time allowed by law for redemption, the same may be perfected as herein provided, notwithstanding the expiration of such limitation; provided, that where the land sought to be redeemed has been purchased by an individual and not by the State, it shall not be necessary to submit the matter to the State auditor.

2318. (4095) (610) *Certificates of redemption, and of release.*—Upon the payment of the amount required by law for the redemption of the lands sold for taxes by a person entitled to redeem, the judge of probate must issue such person a certificate of redemption describing the lands, setting forth the facts of the sale, substantially as contained in the certificate of purchase, the date of redemption, the amount paid, and by whom the lands are redeemed; and he must make the proper entries in the book of sales in his office and immediately give notice of such redemption to the county treasurer; and the certificate must then be presented to such treasurer, who shall countersign the same, and unless so countersigned, no certificate shall be held as evidence of redemption. And it shall be the duty of the judge of probate to keep a book of certificates of redemption, and every blank shall have a stub attached thereto, on which shall be printed such matter as the State auditor may prescribe,

Certificate,  
Acts 1903.

Amended,  
March 4, 1903.  
p. 194.



with appropriate blank spaces to be filled by the judge of probate upon the issuance of any certificates of redemption. The State auditor shall take and file in his office a proper receipt from the judge of probate for the certificates of redemption so furnished him. If such lands were bid in by the State, the person redeeming shall present to the State auditor the certificate of redemption, and the State auditor shall give to such person a certificate releasing all claims to the lands acquired by the State at the tax sale.

Redemption  
money.

2319. (4096) (611) *Redemption money for; where deposited, and how paid over.*—If the lands redeemed were bid in by any person other than the State, the redemption money must be deposited by the judge of probate in the county treasury, and there kept separate and apart from the general funds of the county; and the judge of probate shall notify the purchaser of such deposit by mailing notice to the postoffice address of such purchaser, if the same be known, and if unknown, then he shall mail such notice to such purchaser at the county site of the county in which the lands are located; and upon the demand of the purchaser, his personal representative or assignee, and the surrender of the certificate of purchase, the judge of probate must give him an order on the treasury for the same.

When no com-  
missions al-  
lowed. Acts  
1903.

2320. (4097) (612) *Redemption money must be promptly paid over, else no commission allowed; monthly reports.*—When lands which have been bid in by the State are redeemed, the judge of probate must, during the month in which such redemption is made, remit to the State treasurer, at the expense of the State, the proportion of the redemption money belonging to the State, and pay into the county treasury the proportion of such money belonging to the county, and to the proper authorities the proportion belonging to the school fund, if any; and upon all such money so paid over during the month of collection, he is entitled to commission at the rate of two and one-half per cent, which he may de-

As amended,  
March 4, 1903,  
p. 195.

duct therefrom, but he shall not be allowed any commissions on any money not so paid over; and on the last business day of each month the judge of probate shall certify to the auditor and to the county treasurer, upon blanks to be furnished by the auditor, a full and correct statement of all real estate bid in by the State and redeemed, showing separately the amount of State, county, and school taxes and penalties and costs received by him on such redemption, and if no lands have been redeemed, he shall report that fact.

2321. (4098) (612) *Assessor and collector to be notified of redemption and fees paid them; duty of assessor to list lands.*—Within five days after the redemption of any real estate bid in by the State, the judge of probate shall notify the tax assessor and tax collector of his county thereof, and shall, on demand, pay to them the costs and fees to which they are respectively entitled; and the assessor shall enter such real estate, and the name of the person redeeming the same, on an appropriate list, to be kept by him, for assessment.

Fees of assessors and collectors.

2322. (4099) (613) *Purchaser not liable for rents on redemption; exception.*—Neither the purchaser nor any one claiming under him, who may have lawfully obtained possession of any real estate purchased at tax sales, shall be liable, upon the redemption of such real estate, to account to the owner for any rents, issues, and profits, he shall be held and considered the rightful owner of such real estate, unless such owner, at the time of the sale, was a minor, a person of unsound mind, and had no guardian, or his guardian was not lawfully served with notice of the proceedings had in the court of probate for the sale of such real estate, in which event such purchaser, or other person in possession, shall be liable for rents, issues, and profits, as in other cases; provided, that neither such purchaser nor any one claiming under him shall have the right to cut standing timber from land so purchased at tax sales, until he shall have received a deed for the land from the probate judge.

Rents.

As amended,  
Oct. 10, 1903,  
p. 410,

2323. (4100) (614) *Description of lands bid in by State, etc.; prepared by auditor; sale thereof.*—It shall be the duty of the State auditor to cause to be prepared a suitable book, in which shall be entered a description, as accurate as can be obtained, of all the lands which have been bid in by the State, with the amount of State and county taxes due thereon, the date when such lands were bid in; and when two years shall have elapsed from the day of sale, such portions of such lands as have not been redeemed shall be subject to sale by the State; and the State auditor, with the approval of the governor, may sell the same at private sale to any purchaser who may pay therefor in cash to the treasurer such sum of money as the State auditor and State treasurer, with the approval of the governor, may ascertain to be sufficient to cover and satisfy all claims of the State and county, which sum shall not be less than the whole amount of taxes, interest, costs, and officers' fees, as provided for and required to be paid in case of the redemption of such lands.

2324. (4101) *When former owner to be notified and allowed to redeem.*—When application is made to the State auditor by any person to purchase lands in which such person had no interest, it shall be the duty of the State auditor to mail a notice in writing to the owner, or some person having an interest in such lands, if his place of residence is known, or, if not known, then to the judge of probate of the county in which such lands are situate, informing him that such application has been made and fixing a reasonable time within which owner or other person having an interest in the lands may redeem the same; the judge of probate shall cause the notice to be posted at the courthouse, and he shall mail a copy of said notice to the owner, if known to him; and if such lands are not redeemed within the time so fixed, the same shall be sold to the applicant, or any other person desiring to purchase the same, without order or further notice

Right to re-  
deem.

Acts 1903.

Amended,  
March 4, 1903,  
p. 195.

to such owner or person having an interest in the lands. If such lands are redeemed within the time so fixed, the judge of probate must, without delay, report the same to the State auditor, and pay over the redemption money, as required by law.

2325. (4102) (614) *Auditor to execute deed to purchaser; rights thereunder.*—When <sup>Deed by au-</sup>lands <sup>ditor.</sup> have been sold by the State, as provided in the two preceding sections, and the purchase money has been paid, the State auditor, in behalf of the State, shall execute to the purchaser a deed, duly acknowledged, without warranty or covenant of any kind on the part of the State, express or implied, conveying to him all the right, title, and interest of the State in and to the lands purchased by him; and such purchaser shall thereafter have all the right, title, and interest of the State in and to such lands, and shall be held and treated as the assignee of all the taxes due upon such lands, or for which they were sold, and the penalties, and all of the taxes that should have been, under the law assessed upon the same, if they had been the property of a private citizen of the State; and he shall be clothed with all the rights, liens, powers, and remedies, whether as a plaintiff or defendant, respecting said lands as an individual purchaser at the tax collector's sale would have in similar circumstances; and all such liens and charges as the State had before such sale by the State auditor shall be enforced in favor of such purchaser from his as under the provisions of law relating to individual purchasers at sales by the tax collector. Or such purchaser on failure of his title at law, instead of proceeding to have his liens and charges assessed by a jury, may foreclose the same by proceeding in equity.

2326. (4103) (614) *Auditor to certify sale to judge of probate and furnish description to assessor, etc.*—Upon the consummation of such <sup>Duties of au-</sup>sale the State auditor must certify the same to the judge of probate, who shall make entry there-<sup>ditor.</sup>

of in the book of land sales in his office; and the auditor shall furnish description of such lands to the assessor of the county in which they are situate, who shall enter the same upon his list for assessment; but the time allowed infants and lunatics, in which to redeem lands sold for taxes, shall in no wise be affected by any such sale and conveyance.

2327. (4104) (616) *How county taxes, fees, etc., distributed.*—When lands bid in by the State have been sold by the State under any of the provisions of this chapter, the State auditor shall draw his warrant on the State treasurer in favor of the judge of probate of the county in which the lands lie, for the county and school taxes, and the fees and costs due to the different officers of the county, specifying each separately; and if the same cannot be ascertained from the records and papers in his office, the judge of probate, on notice by the State auditor of such redemption or sale, must certify the same to him; and the judge of probate, upon the collection of such warrant, shall pay the same over to the officers entitled thereto, or authorized by law to receive the same.

2328. (4105) (617) *Effect or failure to redeem lands bid in by State.*—The right to redeem any real estate bid in for the State shall be forfeited, unless such real estate is redeemed within the time prescribed in this chapter; and if not redeemed within that time, all the right, title and interest of the owner of such real estate, and of the person whose duty it was to pay the taxes thereon, in and to such real estate, shall be transferred to, and absolutely vested in the State.

Forfeiture of  
right to re-  
deem.



## ARTICLE XIV.

## Cancelling Erroneous Sales and Refunding Purchase Money. 2329-2331.

2329. (4106) *When sale by the State canceled and purchase money refunded.*—When land <sup>When sale cancelled.</sup> which has been bid in for the State at tax sales has been sold by the State at private sale, and the purchase money has been paid into the State treasury, and it shall be made to appear to the satisfaction of the State auditor and of the governor that such tax sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the State auditor, with the approval of the governor, may, upon the surrender and cancellation of the deed executed by the State auditor to such purchaser, draw his warrant on the State treasurer, in favor of such purchaser, his heir or representative, for the amount of money so paid to the State for such land, and the treasurer must pay the same. But no such sale shall be canceled and the purchase money refunded unless application therefor be made within two years from the date of such sale.

2330. (4107) *Amount of such purchase money paid over to county to be refund-County to re-*  
*ed to State.*—The State auditor must as-<sup>fund to State.</sup> certain the amount of such purchase money which has been paid to the county in which the land is situated, as fees, costs, taxes, penalty, and interest, or on other account, if any such payment has been made on account of such purchase, which amount he shall certify to the judge of probate of such county, or presiding officer of the court of like jurisdiction, where the judge of probate has no connection with such court, who shall present such claim at the next succeeding term of the commissioners' court, or court of like jurisdiction of such county, when such court shall order a warrant in favor of the State for such amount, which warrant shall be a preferred claim against the county, and

payable by the county treasurer to the judge of probate, or presiding officer of any court of like jurisdiction, where the judge of probate has no connection with such court, who shall forthwith forward such amount, less cost of remitting, to the State treasurer, and report it to the State auditor.

2331. (4108) (595) *When tax sale to private purchaser canceled and money refunded.*—When land has been sold for taxes and purchased by a purchaser other than the State and the purchase money has been paid into the State and county treasuries, and it shall be made to appear to the satisfaction of the judge of probate and the State auditor that such sale was invalid by reason of the fact that the taxes for which the land was sold were not due, the judge of probate, upon the surrender and cancellation of the deed, if a deed has been executed to such purchaser, and an appropriate entry upon the record of sales in his office canceling such sale, must give to such purchaser a certificate to the State auditor showing the amount of State taxes received by the State from the proceeds of such sale, and a similar certificate to the court of county commissioners, or court of like jurisdiction, showing the amount of county taxes received by the county from the proceeds of such sale; and the State auditor, if he shall find such certificate to be correct, must draw his warrant on the State treasurer in favor of such purchaser, his heir or representative, for the amount of money so received by the State, and the treasurer must pay the same; and the amount so paid to the county must be allowed by such court at the next or any succeeding term thereof. But no such sale shall be canceled and the purchase money refunded unless application therefor be made within five years from the date of the tax sale.

When tax sale  
invalid.

## ARTICLE XV.

Erroneous Sales; Appointment of Agent in County; Record to be Kept by Auditor; How State Lands disposed of. 2332-2339.

2332. *Duties of State auditor as to erroneous sales of property for taxes.*—The State auditor shall examine carefully all certifications of purchase of real estate, where the same were bid in for the State at tax sale, that are on file at his office, or that may be hereafter by him received, and if, in his opinion, such sale was erroneous for want of regularity, improper or insufficient description, error in advertisement, or for any other cause that may come within his knowledge, he shall so declare it, and return such certificate to the judge of probate in the county of such sale; he shall also notify the tax assessor of the county in which the property is situated, and direct him to assess the same as an escape for the years in which it is subject under existing laws. But in no case where sales are declared erroneous or void by the auditor shall any penalty attach to the taxpayer, except interest on taxes, all cost accruing shall be paid by the officer making the error, as required by section 2304 (4082) of this Code, in case of purchase by individuals.

Duty of auditor when tax sale erroneous.

Feb. 15, 1899, p. 120.

2333. *Agent in each county.*—The State auditor shall appoint, with the approval of the governor, an agent in each county in the State, to look after, protect against trespassers, and rent any real estate bid in by the State at tax sale; said agent shall be under the control and direction of the State auditor, who shall have the power to remove for any cause, any agent so appointed.

Agent in each county.

Feb. 13, 1899, p. 120.

2334. *Compensation of agents.*—For services rendered under the preceding section, the State auditor shall be permitted to pay, out of the receipts received from said agent, fair compensation for his services.

Some one in  
each county  
to act for the  
State.

2335. *Power to investigate sales.*—The State auditor, by the approval of the governor, may contract with some person or firm in each county of the State, to investigate sales of real estate for taxes and bid in for the State, to notify parties at interest in such real estate, of such sale, to secure redemption or sale of property subject to sale at private sale by the State, and transact such other business in connection therewith that the State auditor may deem necessary for the interest of the State.

2336. *Compensation of person or firm to investigate sales.*—For services rendered under the preceding section, the auditor may allow fair compensation, which shall not exceed ten per cent of the proceeds from such sale or redemption, and shall be paid from the fund so received, or may be paid by the transfer of property held by the State, subject to sale at private sale.

Record by  
auditor.

2337. *Record of land bid in by State at tax sale.*—The State auditor shall have prepared a suitable record in which shall be entered a description of all real estate bid in by the State at tax sale, with the amount of taxes due the State and county, and the costs due officers, and the date when such lands were sold.

Lands sub-  
ject to sale.

2338. *Sale by the State when not redeemed.*—When two years have elapsed from date of sale, such portions of real estate as have not been redeemed shall be subject to sale by the State at private sale, and the auditor, with the approval of the governor, may sell the same at a price fixed by the State auditor and State treasurer, and approved by the governor.

2339. *Notice to former owner to redeem.*—Upon application for the purchase of real estate under this article, the State auditor shall notify the former owner thereof.

## ARTICLE XVI.

To Refund Money Paid for Taxes Not Due, or  
Erroneously Paid. 2340-2347.2340. *To refund taxes when paid by error.*—

Any person or his agent, or the heir or personal representative of such person who owns property subject to taxation in this State, and who, through a mistake or error in the assessment or collection of taxes, has paid to the county tax collector money that was not due from him for taxes, may file a petition in the court of county commissioners asking that a warrant be drawn in his favor refunding to him such part of said money as was received by the county, and that the certificate of the judge of probate be sent the State auditor showing the amount of said money as was received by the county, and that the certificate of the judge of probate be sent the State auditor, showing the amount of said money received by the State.

To refund  
taxes when  
paid by error.  
Sept. 29, 1903,  
p. 278,

2341. *Proof of claim certified to auditor.*—

The court of county commissioners shall examine into the facts and evidence offered by the petitioner in support of the allegations of his petition, and, if proper and full proof of the same be made, the court must allow said claim as to the county tax, and must instruct the judge of probate to certify to the State auditor the fact that a petition has been filed in the commissioners' court, and full and proper proof has been made of the facts therein alleged, and furnish the State auditor a copy of the said proof, and that the petitioner, through a mistake or error in the assessment or collection of taxes, has paid to the county tax collector a certain named sum of money, of which amount the State has received———dollars, which should be refunded in accordance with the prayer of the petition.

Proof of claim.

2342. *How paid by State auditor.*—On receipt of said certificate of the probate judge from the court of county commissioners and copy of proof,

How paid.



the State auditor, if he find said certificate to be correct and proof sufficient, shall draw his warrant on the State treasury in favor of the petitioner for such an amount as the said certificate shows should be refunded.

To whom applicable.

Feb. 29, 1903,  
p. 278,

2343. *To whom applicable.*—The provisions of this article shall apply to all persons who are justly entitled to have refunded money erroneously paid for taxes after the 29th day of September, 1903.

2344. *Time within which petition must be filed.*—No such claim shall be allowed and the money for same refunded, unless the petition therefor shall be filed within four years from the date said payment was made to the county tax collector.

Aug. 16, 1907,  
p. 639,

2345. *Paid under mistake of law or fact; refunded; action for.*—In case of the payment of money under mistake of law or fact upon any illegal tax assessment made under color of any law, special or general, of the State, or by any of its political subdivisions, authorizing the assessment or collection of taxes for any purpose whatever, whether for any municipality, for the payment of the creditors of any municipality, for schools, or otherwise, except the laws relating to taxes to be paid to the State or to the general funds of the counties, respectively, the same shall be recoverable by appropriate proceedings at law or in equity against the proper parties or their successors, with the usual rights of any upon appeal, and that such payment was not made under compulsion or protest shall be immaterial.

2346. *Payment of amounts erroneously paid and costs awarded.*—In case of any petition or application for the refund of any money paid as aforesaid, filed with any mayor and aldermen, or any other municipal or other board, court of chancery, or other authority having the control or the administration or the supervision of the receipts or disbursements of any taxes collected under, or under color of, any law mentioned in the preceding section, it shall, upon the proper

proof, pay or order paid all such money so erroneously paid, and the tax collector, custodian, disbursing officer, or agency under it must obey such order, and also pay such costs as may in such petition or application or suit be awarded, adjudged, or decreed in favor of such person making such erroneous payment; but this section shall not apply to assessments where owners of property received special benefits, or where taxes were due but irregularly assessed thereon.

2347. *Extent of application of two preceding sections.*—The provisions of the two preceding sections shall apply to all persons and corporations who are now or may hereafter be justly and equitably entitled to have money erroneously paid for taxes refunded, such payment having been made within six years preceding the commencement of any action, suit, or proceedings for its recovery.

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## ARTICLE XVII.

General Duties of Auditor in Supervising the Enforcement of the Revenue Laws; Miscellaneous Provisions. 2348-2360.

2348. (4109) (618) *Duties of auditor as to enforcement of revenue laws.*—The enforcement of the revenue laws of the State shall be under the general supervision and direction of the State auditor, who shall, by general rules, and, if need be, by specific instructions, direct the tax assessors and tax collectors in the discharge of their duties; and in case of doubt, he shall, after taking the opinion of the attorney-general, advise the assessors and collectors as to the construction to be placed upon the law; and such rules, instructions, and advice, when followed or conformed to, shall protect them as against the State. He shall see that the returns, reports, payments, and settlements, required by law to be

Duties of auditor.

made by any and all officers charged with the performance of any duties under this chapter, are promptly made by such officers at the time or times they are required to be made; and in default of the performance by any of them of any of such duties, he shall promptly direct such prosecutions or other legal proceedings as may be by law authorized or directed.

Blank forms.

2349. (4110) (619) *Assessment lists; form and printing of.*—It shall be the duty of the State auditor to prepare and cause to be printed a blank form of assessment list, specifying therein the different species of property, with appropriate blanks for a description of each, and the other subjects of taxation, which are required by law to be returned by the taxpayer to the tax assessor for taxation; and upon this form he may cause to be placed an abstract of the duties of the taxpayers in returning their lists, and of their duties and liabilities as declared by law, and such instructions to the assessors as will advise them of their duties in making assessments of property and other subjects for taxation; and he shall furnish each assessor one or more of such forms, so that the assessor may cause to be printed, or otherwise prepared, as many copies thereof as may be needed in his county. The State auditor shall also furnish to the judges of probate of the several counties blank forms, whereon are to be returned to him the abstracts of the property and other subjects of taxation, polls, and taxes, required by law to be returned to him by such officers.

Forms of questions.

2350. (4111) *Auditor to prepare and furnish printed forms of questions for use by assessors.*—It shall be the duty of the State auditor to have prepared for the use and guidance of the tax assessors a printed form of questions, with suitable blank spaces for answer in writing by the taxpayer, his agent, or the tax assessor, as to the description, location, quantity, quality, and all

other information required to be given as to any and all property, real, personal, mixed, or an interest therein, together with suitable columns in which to enter the value placed upon such property or interest therein, and also a column showing the amount of State, county, and special taxes on the aggregate of real and personal property separately.

2351. (4112) *Revenue law to be printed in pamphlet for distribution.*—The auditor shall cause the revenue law, with a copious index thereto, to be printed in the form of a pamphlet, and after retaining the number of copies which may be necessary for the use of the officers of the State at the capitol, shall furnish a copy thereof to each of the judges of the circuit and city courts, and the chancellors and judges of the supreme court, judges of probate, solicitors, members of the legislature, members of the courts of county commissioners or boards of revenue, and assessors and collectors, and to bar libraries and justices of the peace and shall cause the remainder to be sold at such price as will indemnify the State against loss from printing and publication of the same, as herein required. So much of the matter included in such pamphlet as may be copied from this chapter must follow in the order and arrangement in which it appears herein, showing the number of this chapter, the number and title of each article, and the headline and number of each section as herein shown.

To whom revenue law furnished.

2352. (4113) (620) *Duty of auditor as to institution of suits; agreed statement of facts.*—It shall be the duty of the State auditor to cause suit to be brought, in the name of the State against any and all persons by law charged with the collection of State taxes, or with any duty in regard to the State revenue, and their sureties, for failure to collect such taxes or to perform such duty; and he may also, in such cases as, in

When suits to be brought.



his judgment, the interest of the State requires it, cause suit to be brought against defaulting taxpayers for the taxes claimed from them by the State; and, in cases in which a reasonable doubt may exist as to the construction or validity of the law under which taxes are claimed, he may authorize an agreed statement of the facts of the case to be made for the speedy adjudication of the matter in controversy.

Collectors  
commissions.

2353. (4114) (621) *Failure to give collector credit for commissions; how corrected.*—When the State auditor finds that he has failed to give any tax collector credit for commissions to which he is entitled, he is authorized to correct such error in his settlement with such collector; and if the account of such collector has been closed, and such commissions have been paid into the State treasury, the State auditor shall draw his warrant on the State treasurer for the amount thereof in favor of such collector.

Overpay-  
ments.

2354. (4115) (622) (506) *Warrant for over-payments.*—The State auditor must draw his warrant on the State treasurer in favor of any judge of probate, tax collector, county treasurer, clerk of the circuit court, or other officer paying money into the State treasury, for any amount over-paid into the treasury by such judge of probate, tax collector, county treasurer, clerk of the circuit court, or other officer.

Taxes a pre-  
ferred claim.

2355. (4116) (623) *Taxes a preferred claim in case of general assignment or insolvency.*—When a taxpayer makes a general assignment of his property for the payment of his debts, or is declared a bankrupt, or when dead, and his estate is or becomes insolvent, any unpaid taxes assessed against him, or against his estate, shall be a preferred claim, and shall be paid by the assignee, trustee, or personal representative out of the first money received by him belonging to the trust or estate.



2356. (4117) (624) *Officer selling property under decree or process to first pay taxes.*—<sup>Payment by officer.</sup> When any sheriff or other officer shall sell any property under execution or other process, or under any decree, judgment, or order of any court, it shall be his duty to ascertain what taxes are a lien upon such property, and upon a sale thereof, to first apply the proceeds of such sale to the payment of such taxes.

2357. (4118) (625) *Liability of agent for taxes on receipts.*—When taxes are levied on the <sup>Agents lia-</sup> gross or net receipts of any person, company, <sup>bility.</sup> corporation, or association doing business in this State by any agent, such agent shall be personally liable for such taxes, and the tax collector may collect the same from such agent by garnishment, or by the seizure and sale of any personal property belonging to him, as if such taxes were assessed against him.

2358. (4119) (626) *Copies of papers, records, etc., in auditor's office as evidence.*—<sup>Evidence.</sup> In any suit against any tax assessor, tax collector, judge of probate, or other officer charged with the performance of any duties under this chapter, and his sureties, or either, for failure to pay over any money collected by him for the State, or to perform any other duty required of him by law, a copy of any bond, record, book, paper, contract, return, or other document, or of the official statement of any account between him and the State, in the office of the State auditor or State Treasurer, certified by the State auditor, if the original is in his office, or by the State treasurer, if in his office, under the seal of the State auditor, shall be received as evidence in any case in which the original would be competent, unless the defendant shall deny under oath that he made or executed such original.

2359. (4120) (627) *Assessor and collector may contract for stationery, printing, etc.*—The

tax collector and tax assessor are authorized to purchase necessary books and stationery, and to contract for the necessary printing in their respective offices, with the approval of the court of county commissioners.

Penalty for failure to pay over money. 2360. (4121) (628) *Penalty against officer failing to pay over money collected.*—Upon a verdict being returned in favor of the State, in any suit brought by the State against any officer charged with the collection of any revenue for the State, and his sureties, or either, for the recovery of any such revenue collected by him, a judgment must be rendered for the amount of such verdict, and twenty per cent thereon.

## ARTICLE XVIII.

License Taxes, From Whom and for What Business Required; County Levy. 2361-2363.

License Tax. 2361. (4122) (629) *Persons required to take out licenses, and prices to be paid therefor.*—Licenses are required of all persons engaged in or carrying on any business or doing any act in this section specified, for which shall be paid for the use of the State the following taxes, to-wit:

As amended, March 5, 1901, p. 222.

Acts 1903. 1 (1). *Abstracts.*—Abstract companies and persons pursuing the business of furnishing abstracts of title, in towns or cities of twenty thousand inhabitants or more, thirty dollars; in towns and cities from ten to twenty thousand inhabitants, twenty dollars; in towns and cities of from five thousand to ten thousand inhabitants, ten dollars; in towns and cities of less than five thousand inhabitants, five dollars.

As amended, March 4, 1903, p. 196.

License tax as amended. 2 (2). *Auctioneers.*—For each auctioneer in any city or town of twenty thousand inhabi-

tants or over, a license tax of fifty dollars per annum; in cities or towns of eight thousand inhabitants and less than twenty thousand, thirty dollars per annum; in cities and towns of five thousand inhabitants, and less than eight thousand, twenty dollars per annum; in cities or towns of more than one thousand and less than five thousand, five dollars per annum. The term auctioneer, within the meaning of the foregoing provisions, shall be deemed to apply to any person selling goods, wares, merchandise, live stock, or other things of value, at public outcry, except as otherwise herein provided, whether a charge is made for the same or not.

March 5, 1901,  
p. 223.

In the following cases sales at public outcry may be made for a compensation without license:

First. The estate of a decedent by the personal representative, or his agent, according to law, or by the provisions of the will.

Second. Property conveyed by deed of trust, mortgage, or decree, or ordered to be sold according to the deed, decree, or order.

Third. Any person may sell the agricultural products arising from his own or other labor under his control, or his real or person estate, not purchased or sold on speculation.

Fourth. All sales under legal process. For transient or itinerant auctioneers, or dealers in goods, wares, and merchandise, other than licensed peddlers, and other than traveling agents or wholesale dealers in said article making sale thereof by sample, fifty dollars.

*Automobiles* (2a)—For each person who keeps for hire or rent any automobile, locomobile, or any like car, a license tax as follows: In towns and cities of more than thirty thousand inhabitants, fifty dollars; in towns and cities of more than fifteen thousand and less than thirty thousand inhabitants, thirty-five dollars; in all other cities and towns, twenty-five dollars.

March 7, 1907,  
p. 40, § 14.

As amended,  
March 5, 1901,  
p. 224.

3 (3). *Bagatelle, or jenny lind tables*.—For each bagatelle or jenny lind table, or any other table or device of any kind from which any kind of profit is derived by the keeper, fifty dollars.

Acts 1903.

4 (4). *Baseball park*.—For each owner or lessee of a baseball park, where admission fees are charged, fifty dollars; provided, that in towns of more than one thousand and less than inhabitants, only twenty-five dollars shall be charged.

As amended,  
March 4, 1903,  
p. 196.

Acts 1903.  
p. 197.

5 (11). *Bicycles*.—Each person, corporation, or firm keeping bicycles for rent or hire in cities of over twenty thousand inhabitants, fifteen dollars; in cities between ten and twenty thousand inhabitants, ten dollars; in towns of less than ten thousand inhabitants, five dollars.

As amended,  
March 5, 1901,  
p. 224.

6 (6). *Billiard tables*.—For each billiard table, for the use of which money or other compensation is charged, and which is not kept in connection with the business of a barroom or drinking saloon, twenty-five dollars.

For each billiard table kept in connection with the business of a barroom or drinking saloon, whether its use be charged for or not, fifty dollars.

License tax.

7 (9). *Bill posters*.—For each bill poster or person pursuing the business of posting bills, in cities and towns of twenty thousand inhabitants or more, twenty-five dollars; in towns and cities from ten to twenty thousand inhabitants, fifteen dollars; in towns and cities of less than ten thousand inhabitants, five dollars.

Acts 1903.

As amended,  
March 4, 1903,  
p. 197.

8 (4 1-2). *Bond-makers*.—Any person, firm, or corporation engaged in the business of making bonds, except guarantee or surety companies or corporations otherwise provided for or regulated, shall pay a license of fifty dollars per annum.

9 (12). *Book agents*.—Any person other than a merchant paying an ad valorem tax on his stock of goods, who shall receive subscriptions for or shall in any manner furnish books, maps, prints, pamphlets, or periodicals, shall pay a privilege tax of ten dollars in each county in this State in which he shall do business; but this shall not apply to persons distributing or selling by subscription any religious books, pamphlets, or periodicals. No license shall be required of any person who was a Federal or Confederate soldier during the civil war, or any indigent or disabled person who only sells or furnishes books, maps, prints, pamphlets, or periodicals to persons residing in the county where such indigent or disabled person resides.

License tax.  
As amended,  
March 5, 1901,  
p. 225.

10 (5). *Bottlers*.—For each person, firm, or corporation engaged in the business of bottling non-alcoholic, carbonated, or other soft drinks, a license tax as follows: In towns or cities of not more than five thousand inhabitants, or within four miles thereof, twenty-five dollars. And in towns of five thousand inhabitants and not exceeding twenty thousand inhabitants, or within four miles thereof, fifty dollars. And in all towns or cities having more than twenty thousand inhabitants, or within four miles thereof, one hundred dollars.

Acts 1903.  
As amended,  
March 7, 1907,  
p. 403.

11 (8). *Bowling alleys*.—For bowling or tenpin alleys, for the use of which money or other compensation is charged, twenty-five dollars for each alley; and for each bowling or tenpin alley, kept in connection with a drinking saloon, whether compensation is charged or not, twenty-five dollars.

As amended,  
March 5, 1901,  
p. 224.

12 (13). *Brewers*.—For brewers, one hundred dollars. Every agency of a brewery of another State doing business in this State shall pay the same license; and any person, whether retail dealer or not, selling the goods or product of any

Ib., p. 226.



brewery, shall be deemed and held an agent unless such brewery shall have an established agency in this State.

Acts 1903. 13 (10). *Brokers or commission merchants.*  
 As amended, For each commision merchant or dealer in mer-  
 March 4, 1903, chandise for commission in towns and cities of  
 p. 198. less than twenty-five hundred inhabitants, five  
 dollars; and of twenty-five hundred and less  
 than five thousand inhabitants, ten dollars; in  
 towns and cities of five thousand and less than  
 ten thousand inhabitants, fifteen dollars; in  
 towns and cities of ten thousand and less than  
 twenty-five thousand inhabitants, twenty-five  
 dollars; in towns and cities of twenty-five thou-  
 sand inhabitants or more, fifty dollars.

14 (27). *Cane racks.*—See Devices.

As amended, 15 (26). *Cards; dealers in.*—For each dealer  
 March 5, 1901, in playing cards, five dollars.  
 p. 230.

March 7, 1907, 16. *Ciders.*—For retailers of drinks, known  
 p. 403, § 21½. as ciders, a retail license of twenty dollars for  
 the State and ten dollars for the county, and any  
 person dealing in said drinks, who shall sell,  
 barter, or exchange, or in any way dispose of or  
 permit to be taken away any cider in a quantity  
 less than one quart, or who shall permit the same  
 to be drunk by the glass or single drink, in or  
 about his place of business, shall be declared a  
 retail dealer; but the provisions of this subdi-  
 vision shall not apply to pure apple or peach ci-  
 ders.

As amended, 17. (14). *Cigarette dealers.*—For each dealer  
 March 5, 1901, in cigarettes, whether principal stock in trade or  
 p. 226. not, in any place outside of incorporated towns  
 or villages, five dollars. In incorporated towns  
 and cities of five thousand inhabitants or less,  
 ten dollars. In towns and cities of more than  
 five thousand and not exceeding ten thousand in-  
 habitants, twenty dollars. In towns and cities

of more than ten thousand and not exceeding twenty thousand inhabitants, twenty-five dollars. In all other places, thirty-five dollars.

18 (16). *Circuses*.—For each day's exhibition of a circus, in towns or cities having more than five thousand inhabitants, or within five miles thereof, one hundred and fifty dollars; in all other places, one hundred dollars. Every building, space, tent, or area where feats of horsemanship or acrobatic sports are exhibited shall be regarded as a circus; but the provisions of this section shall not apply to theaters paying a theatrical license where acrobatic feats, or pony or dog shows are given. For each day's exhibition of a pony or dog show, exhibiting in towns and cities having more than ten thousand inhabitants, twenty-five dollars. In all other places twenty-five dollars. For each day's exhibition of a side show accompanying a circus, menagerie, or museum, ten dollars. For any flying jenny accompanying a circus, ten dollars per day.

Acts 1903.  
As amended,  
March 4, 1903,  
p. 199.

19 (25). *Coal or coke agents or dealers*.—Each person, firm, or corporation, or their agents, who deal in coal or coke, in towns or cities of twenty thousand or more inhabitants, twenty dollars; in towns and cities of less than twenty thousand inhabitants and more than five thousand inhabitants, ten dollars; in towns and cities of five thousand inhabitants, ten dollars; in towns and cities of five thousand inhabitants or less, five dollars; but this shall not apply to persons or companies who sell in quantities of five bushels or less, or persons who mine their own coal and sell the same in wagon load lots only.

Ib., p. 203.

20 (17). *Cold storage*.—Any person, firm, or corporation doing a cold storage business, ten dollars.

Acts 1903.  
As amended,  
Oct. 1, 1903,  
p. 305, s. 1

Acts 1903.

As amended,  
Sept. 10, 1903,  
p. 301,

21 (20). *Collecting agencies*.—Each collecting agency in towns and cities of twenty thousand and more inhabitants, one hundred dollars; in towns and cities of less than twenty thousand inhabitants, twenty-five dollars. Each person, firm, association of persons, or corporation which shall employ agents to solicit claims for collection, or shall send out circulars or other notices soliciting claims for collection from persons, firms, or corporations in the State, or which shall agree or contract with any person, firm, or corporation to give any compensation, rebate, or other thing of value to any person for the purpose of procuring or inducing such person to solicit or procure for him or them any claim for collection, shall be deemed a collecting agency within the meaning of this section; provided, that any person, firm, or corporation which shall pay the license tax as a commercial or mercantile agency, as provided in the succeeding subdivisions, shall not be liable for the license tax as a collecting agency except in one county in the State.

Acts 1903.

Amended  
Sept. 30, 1903,  
p. 301,

22 (18). *Commercial or mercantile agencies*.—Each person, firm, or corporation, or association of persons inquiring into and reporting upon the credit and standing of persons in this State, shall pay to the State annually the sum of three hundred dollars, and the payment of this license in any one county shall be sufficient, and shall not be required in any other county in the State.

Acts 1903.

License tax.

As amended,  
March 4, 1903,  
p. 203.

23 (22). *Compounders and rectifiers*.—For compounders and rectifiers of spirituous, vinous, or malt liquors, two hundred dollars; any person who rectifies, purifies, or refines distilled spirits or wines or other liquors with any chemicals or other substances, or any dealer who dilutes such liquors or wines with water or any other substance, or who compounds liquors for sale under any name, shall be deemed a compounder or rectifier under this section.

24 (19). *Concerts or exhibitions.*—For each concert, musical entertainment, public lecture, or other public entertainment where charges are made for admission, or for the use of any instrument or device or the participation in any exercises or entertainment not given wholly for charitable, school, or religious purposes, and not otherwise provided for, ten dollars; but the provision of this subdivision shall not apply to exhibitions or entertainments given in theaters when the owners or managers thereof have taken out license as owner or manager. In all cases where such exhibitions shall be in the nature of a continuous show or performance, the license shall be five dollars per day, fifteen dollars per week, or thirty dollars per month. Acts 1903.  
Ib., p. 200.

25 (21.) *Construction companies.*—Each person, firm, or corporation engaged in the business of constructing bridges, waterworks, railroads, or other structures of a like public nature, commonly known as a contractor or sub-contractor, shall pay annually a license tax of ten dollars, in each county where doing business. Acts 1903.  
Ib., p. 202.

26 (24). *Corporations.*—All corporations organized under the laws of this State and doing business in this State, not otherwise specifically required to pay a license tax, shall pay annually the following privilege taxes: Corporations whose paid up capital stock is under ten thousand dollars, ten dollars; corporations whose capital stock exceeds ten and is less than twenty-five thousand dollars, fifteen dollars; corporations whose paid up capital stock is twenty-five thousand dollars and does not exceed fifty thousand dollars, twenty-five dollars. Where the paid up capital stock exceeds fifty thousand is not over one hundred thousand dollars, fifty dollars. Where the paid up capital stock exceeds one hundred thousand dollars and does not exceed two hundred thousand dollars, seventy-five dollars. Where Amended,  
March 5, 1901,  
p. 229.

the paid up capital stock exceeds two hundred thousand dollars and does not exceed three hundred thousand dollars, one hundred and twenty-five dollars. Where the paid up capital stock exceeds three hundred thousand dollars and does not exceed four hundred thousand dollars, one hundred and seventy dollars. Where the paid up capital stock exceeds four hundred thousand dollars and does not exceed five hundred thousand dollars, two hundred dollars. Where the paid up capital stock exceeds five hundred thousand dollars and does not exceed one million dollars three hundred dollars. Where the paid up capital stock exceeds one million dollars, five hundred dollars. Where application is made for the license herein provided, it shall be accompanied by the affidavit of the president or other chief officer of the corporation, showing the amount of capital stock of such corporation; but the payment of this tax in one county in this State, as evidenced by the license or official certificate of the judge of probate, shall be sufficient; but the provision of this subdivision shall not apply to banks and banking institutions regularly organized as such.

As amended,  
March 4, 1903,  
p. 202.

27 (23). *Cotton buyers*.—Each person, firm, or corporation whose principal business is buying cotton, ten dollars, to be paid in each county in which such person, firm, or corporation buys cotton. But when any person has taken out a license to operate a warehouse he shall be entitled to buy cotton without taking out a cotton buyer's license.

March 7, 1907,  
p. 403,

27a. *Cotton compress*.—For each person, firm, or corporation owning or operating any compress for the purpose of compressing cotton, a license tax as follows: For each compress compressing not more than fifty thousand bales, fifty dollars; for each compress compressing more than fifty thousand bales, in any one year, one hundred dollars.



27b. *Cottonseed oil mill.*—For every person, firm, or corporation operating any cottonseed oil mill, cotton mill, or cotton factory, ten dollars where the investment for plant and fixtures is less than twenty thousand dollars; on every <sup>Ib., § 21.</sup> plant where the investment is twenty thousand and less than fifty thousand dollars, thirty dollars; on every plant where the investment is fifty thousand dollars and under one hundred thousand dollars fifty dollars; on every plant where the investment is one hundred thousand dollars and under five hundred thousand dollars, one hundred dollars; on every plant where the investment is five hundred thousand dollars and under one million dollars, one hundred and fifty dollars; on every plant where the investment is one million dollars, or over, two hundred dollars.

28 (30). *Detective agencies.*—For each de-<sup>As amended,</sup> tective agency, company, or corporation doing <sup>March 5, 1901,</sup> business in this State, fifty dollars. <sup>p. 230.</sup>

29 (31). *Devices.*—For each device used by persons as a source of profit to themselves, such as throwing at wooden figures, or any object of like character, cane racks, knife racks, striking an object to test the strength, blowing to test the <sup>Ib.</sup> lungs, or other device of like character, for each county in which it is operated, twenty-five dollars. But this subdivision shall not be so construed as to legalize the operation of any device which is now prohibited by law.

30 (33). *Dice and dice boxes and dominoes.*—For each table or device or set of domino bones, <sup>Acts 1903,</sup> kept in connection with a barroom or drinking <sup>Ib., p. 231.</sup> saloon for use in playing the game commonly known as dominoes, fifty dollars; and for each dice box or dice kept in a barroom or drinking saloon, fifty dollars.

31 (33 1-2). *Dispensaries*.—Each town or city having a dispensary shall pay license as follows: In towns or cities having less than five hundred inhabitants, two hundred and fifty dollars; in towns or cities having less than one thousand inhabitants and more than five hundred, five hundred dollars; each town or city with more than one thousand inhabitants having a dispensary, shall in addition to five hundred dollars, pay two hundred and fifty dollars for each one thousand inhabitants or majority fraction in excess of one thousand inhabitants. This provision shall apply to all dispensaries heretofore established or which may hereafter be established.

Acts 1903.  
As amended,  
March 4, 1903,  
p. 203.

License tax.  
Amended  
March 4, 1903,  
p. 203.

32 (28). *Distillers*.—For distillers of spirituous liquors, one hundred dollars; but this shall not apply to the distilling of fruits.

As amended,  
March 5, 1901,  
p. 230.

33 (29). *Dog shows*—See Circuses.

34 (32). *Dummy railways*.—For each dummy railway being operated in this State, the following license tax: In counties of forty thousand inhabitants or over, fifty dollars; in counties of thirty thousand inhabitants and less than forty thousand, forty dollars; in counties of less than thirty thousand inhabitants, ten dollars.

As amended,  
Sept. 30, 1903,  
p. 301.

35 (34). *Electric light, gas, and waterworks*. Each electric light or power company, street railroad company, waterworks company or corporation, gas company or corporation, operated by a person or company or corporation for public uses, other than a municipality, shall pay to the State the following license taxes: In cities or towns of twenty thousand inhabitants or more, two hundred dollars; in cities or towns of more than ten thousand inhabitants and less than twenty thousand inhabitants, fifty dollars; in cities and towns of more than five thousand inhabitants and less than ten thousand, twenty-five dollars; in cities and towns of less than five thousand inhabitants, fifteen dollars.

Acts 1903.  
Amended,  
March 4, 1903,  
p. 204.

36 (34 1-4). *Emigrant agents*.—Each emigrant agent or person engaged in hiring laborers or soliciting emigrants in this State, to be employed or to go beyond the limits of the State, must pay an annual license of five hundred dollars in every county in which he operates or solicits emigrants, which amounts must be paid into the State treasury for the use of the State. To license emigrant agents. As amended, Oct. 1, 1903, p. 34.

37 (34 1-2). *Entertainments where dancing is had or permitted to be had, and for admission to which charge is made*.—For each entertainment in towns and cities of over one thousand inhabitants where dancing is had or permitted to be had, and for admission to which a charge is made, five dollars; this shall not apply to a theater which pays a regular license as such. License tax. As amended, March 5, 1901, p. 232.

38 (36). *Express companies*.—See section 2086 (3914) of this Code.

39 (35). *Eye-glasses*.—See Peddlers.

40 (37). *Feather renovators*.—For each person, firm or agent soliciting or engaged in cleaning and renovating feathers, in each county, one hundred dollars. Acts 1903. As amended, March 4, 1903, p. 204.

41. *Fertilizer factory*.—For each person, firm, or corporation owning or operating any fertilizer factory in which the capital invested does not exceed twenty-five thousand dollars, a license tax of fifty dollars; in which the capital invested exceeds twenty-five thousand dollars and does not exceed fifty thousand dollars, a license tax of one hundred dollars; in which the capital invested exceeds fifty thousand dollars, and does not exceed one hundred thousand dollars, a license tax of two hundred dollars; in which the capital invested exceeds one hundred thousand dollars, two hundred and fifty dollars for each factory, and each fertilizer mixing plant, fifteen dollars. March 7, 1907, p. 403.

Acts 1903.

License tax.

As amended,  
March 4, 1903,  
p. 205.

42 (37 1-2). *Fire, bankrupt, insolvent sales, etc.*—Before any person, firm, or corporation shall sell or be engaged in the business of selling goods, wares, merchandise, or other personal property, such sales being advertised as bankrupt, insolvent, insurance, assignee, trustee, testator, executor, administrator, receiver, auction, syndicate, railroad, or other wreck, wholesale or manufacturers or closing out sale, or as goods damaged by smoke, fire, water, or otherwise, such person, firm, or corporation shall file an application with the probate judge of the county where such sale is held, or to be held, for a license, which application shall be accompanied by an affidavit stating all the facts, relating the reasons for and character of such sale so advertised and represented, and including a statement of the names of the persons from whom the goods, wares, and merchandise, or other personal property, were obtained, the date of delivering to the person applying for such license, and the place from which said goods, wares, and merchandise or other personal property were last taken or brought, and all details necessary to exactly locate and fully identify the said goods, wares, merchandise, or other personal property, and shall further pay to the judge of probate as a license for the privilege of selling such goods, wares, merchandise, or other personal property, the sum of one hundred dollars, and such license shall be required in each county where such business may be conducted; and upon the filing of such application and affidavit and payment of said sum the judge of probate shall issue a license to such applicant but the provisions hereof shall not apply to bona fide sales of general assignees for the benefit of creditors, or bona fide trustees selling under powers of sale in any deed of trust, or mortgage or lien, executors and administrators selling the goods of their decedent, or to any officer selling property under legal process, or to regularly licensed auctioneers selling bona fide at public outcry in the usual course of their business.

43 (39). *Flying jennies*.—For each flying jenny, called also hobby horses and merry-go-Acts 1903.  
 rounds, or other device of like character, the fol-As amended,  
 lowing license taxes: In cities and towns of Of March 4, 1903,  
 twenty thousand inhabitants or over, and within p. 207.  
 one mile of such, thirty dollars per year, ten dol-  
 lars for each month, or five dollars for each  
 week; in cities or towns of less than twenty thou-  
 sand inhabitants and more than two thousand  
 inhabitants, or within one mile of such, twenty  
 dollars per year, five dollars for each month, and  
 two dollars and fifty cents for each week. In  
 any other place, ten dollars per year, two dollars  
 per month, and one dollar per week; provided,  
 that whenever any license is taken out by any  
 person for a flying jenny or other such device for  
 a whole year, such person may operate such de-  
 vice at any point in the county where the license  
 is taken out, which would not conflict with the  
 license so taken out; in other words, no person  
 shall be permitted to operate such device in any  
 locality for which a higher license is charged  
 than that which he has paid.

45 (41). *Fortune tellers*.—For each fortune As amended,  
 teller, five dollars. March 5, 1901,  
p. 233.

46 (42). *Fruit stands*.—For each fruit stand  
 in cities and towns of over ten thousand inhabi-  
 tants, five dollars in other places, two dollars  
 and fifty cents.

47 (40). *Futures; dealers in*.—For each per-  
 son, firm, or corporation engaged in the business Acts 1903.  
 of buying and selling futures for speculation, or As amended,  
 on a commission, either for themselves or for March 7, 1907,  
 other persons, and each place of business com-  
 monly known as cotton exchanges or stock ex-  
 changes, and sometimes called "bucket shops,"  
 in towns or cities of twenty thousand inhabi-  
 tants or more, five thousand dollars; in towns  
 or cities of ten to twenty thousand inhabitants,  
 four thousand dollars; in town or cities of five



thousand inhabitants to ten thousand inhabitants, twenty-five hundred dollars; in towns or cities of twenty-five hundred to five thousand inhabitants, two thousand dollars; in towns or cities of twenty-five hundred inhabitants or less, one thousand dollars; but this subdivision shall not have the effect to legalize or authorize any business or contract, which would otherwise be invalid or illegal.

As amended,  
March 5, 1991,  
p. 233.      48 (43). *Gypsies and traders*.—For each company of traders, usually known as gypsies, twenty-five dollars for each company.

As amended,  
March 4, 1903,  
p. 208; p. 403,      49 (44). *Horse dealers*.—For each person, firm, or corporation engaged in buying, selling, or exchanging horses, mules, jacks, or jennets, twenty dollars for each county.

As amended,  
March 5, 1901,  
p. 235.      50 (46). *Ice factories*.—For each ice factory, with a capacity of less than ten tons per day, fifteen dollars; of more than ten tons per day, and less than fifteen tons per day, twenty-five dollars. For each ice factory with a greater capacity than fifteen tons per day, fifty dollars.

As amended,  
March 5, 1961,  
p. 234.      51 (46). *Insurance companies*.—For each insurance company doing a banking business, in addition to other special tax, fifty dollars.

As amended,  
March 5, 1901,  
p. 235.      52 (47). *Itinerant traders, auctioneers, and dealers*.—For transient or itinerant auctioneers, or traders or dealers in goods, wares, or merchandise, other than licensed peddlers, and other than traveling agents of wholesale dealers in articles making sale thereof by sample, fifty dollars; and this tax shall apply to all dealers who are migratory and do not pay an ad valorem tax.

Amended,  
Sept. 30, 1903,  
p. 301.      53 (81 1-2). *Junk dealers*.—Each junk dealer in cities and towns of over fifty thousand inhabitants, one hundred dollars; in cities and towns of less than fifty thousand inhabitants and over

ten thousand inhabitants, fifty dollars; in cities and towns of three thousand inhabitants and less than ten thousand inhabitants, twenty-five dollars; in cities or towns under three thousand inhabitants, five dollars; each junk dealer, his clerk, agent, or employe, shall keep a book, open to inspection, in which he shall make entries of all articles of railroad iron and brass, pieces of machinery, and plumbing material purchased by him, together with the name of the party from whom purchased, and upon failure to keep such book or record and produce it on demand, the dealer shall forfeit his license. Each junk dealer, his clerk, agent, or employe, to whom any new and unused articles of railroad iron and brass and pieces of machinery shall be presented for sale shall notify the police authorities that such articles are offered for sale, within a reasonable time thereafter, otherwise his license shall be forfeited.

54. *Jury certificates.*—See witness certificates. As amended,  
March 4, 1903,  
p. 208.

55 48). *Knife and cane racks.*—See Devices.

56 (49). *Laundries.*—Each laundry, other than those run by hand power, ten dollars; this ib., p. 236. shall apply to laundries run by hotels for profit, and shall not apply to laundries in towns and villages of less than one thousand inhabitants.

57 (51). *Legerdemain and sleight of hand.*—For each exhibition of feats of legerdemain or sleight of hand, or other exhibition or entertainment of like kind, ten dollars. Amended,  
March 5, 1901,  
p. 235.

58 (50). *Lightning rod agents, stoves, ranges, etc.*—Each person, firm, or corporation selling or delivering sewing machines, either in person or through agents, and for each person, firm, or corporation who engages in the business of selling or delivering lightning rods, stoves, ranges, bug- As amended,  
March 7, 1907,  
p. 403, § 11.

gies, or other vehicles, twenty-five dollars annually for each county in which they may sell or deliver said articles; and for each wagon and team used in delivering or displaying the same an additional sum in each county of ten dollars annually; but this section shall not apply to merchants selling the above enumerated articles at their regularly established places of business.

59. (52) *Liquors; dealers in.*—For retail dealers in spirituous, vinous, or malt liquors in cities and towns or villages or other places of less than one thousand inhabitants, two hundred dollars; in cities, towns, or villages of more than one thousand inhabitants and less than three thousand inhabitants two hundred and fifty dollars; in cities and towns of more than three thousand inhabitants and less than five thousand inhabitants, two hundred and seventy-five dollars; in cities and towns of more than five thousand and less than ten thousand inhabitants, three hundred dollars; in cities and towns of more than ten thousand and less than twenty-five thousand inhabitants, three hundred and fifty dollars; and in cities of twenty-five thousand inhabitants and over, five hundred dollars. Dealers in lager beer exclusively shall be charged one-fourth of the above rates, and dealers in wines exclusively shall be charged one-tenth of above rates. Any person who pays for and takes out a license as a retailer shall not be required to pay for and take out a license as wholesaler except dealers in lager beer exclusively who shall only sell the same at retail, unless they have paid for and taken out a wholesale dealer's license. For wholesale dealers in spirituous, vinous, or malt liquors in any place, three hundred and fifty dollars. For wholesale dealers in lager beer exclusively, one hundred and fifty dollars, but any brewery may sell the beer of its own production at wholesale without taking out this license, provided it has paid for a license as a brewery. Any person dealing in said ar-

Amended,  
March 4, 1933,  
p. 209.

ticles, who shall sell, barter, or exchange, or in any way dispose of or permit to be taken, spirituous, vinous, or malt liquors in any quantity less than a quart, or who shall permit the same to be drunk by the glass or single drink in or about his place of business, shall be deemed a retail dealer; and any person so disposing of spirituous, vinous, or malt liquors only in the quantity of one quart or more, shall be deemed a wholesale dealer. For retail dealers in any malt or other liquor of the kind commonly called and known as hopfeinweiss, or hop jack, or malt tonic, or malt beverage, and other liquors of like character which are produced either from malt, hops, or grain or other substances usually used in the production of lager beer, the same amount of the license charged to retail dealers in spirituous, vinous, or malt liquors in like places. For the retail of spirituous, vinous, or malt liquors on any steamboat or other water craft, or any sleeping, dining, or buffet car, three hundred and fifty dollars, for which the State shall have a preferred lien upon such steamboat, or water craft, or cars named; such lien may be enforced in any county through which the same may run, by any officer whose duty it is to collect taxes. Such license, when taken out in one county, shall entitle such steamboat, water craft, or car to sell at any point in the State through which the same may run, except that sales must not be made in any prohibition county except to bona fide passengers and while such boat or water craft or car is actually running.

60. (56 1-2) *Machine slot*.—For each machine, such as nickle-in-the-slot, or other device of like character, whether the same is charged for or not <sup>As amended, July 27, 1907,</sup> ten dollars. This shall apply to music boxes, phonographs, etc, having the nickle-in-the-slot device; but this subdivision shall not apply to any device prohibited by law or to any machine from which merchandise or gas is received for the amount placed in said machine. Where several such slot <sup>p. 503.</sup>

machines are run or operated as a "penny arcade" or like place of amusement, the total license on all machines so run or operated in any one "penny arcade," or like place of amusement, shall be one hundred dollars per annum in towns and cities of more than twenty thousand inhabitants for the State and fifty dollars for the county, and in all other places, fifty dollars per annum to the State and one-half of this amount to the county. This license shall be due and payable by the person, owner or proprietor of the establishment, store, or place of business in or at which such slot machine is located, and the State shall have a lien for the payment of such license upon such machine, which lien may be enforced by attachment.

As amended,  
March 5, 1901,  
p. 238.      61. (53) *Menageries and museums*.—For each exhibition of menageries or museums, twenty-five dollars. See, also, circuses, concerts, and exhibitions.

As amended,  
March 5, 1901,  
p. 238.      62. (55) *Mercantile agencies*.—See commercial agencies.

63. (55 1-2) *Merchandise brokers*.—For each merchandise broker in cities of twenty-five thousand inhabitants or more, twenty-five dollars; in cities of five thousand inhabitants, and less than twenty-five thousand inhabitants fifteen dollars; in cities of five thousand and less than ten thousand inhabitants, ten dollars; in towns of twenty-five hundred inhabitants and less than five thousand, five dollars; in towns of less than twenty-five hundred inhabitants, two dollars and fifty cents.

Aug. 2, 1907,  
p. 502, § 1.      64. (56) *Money lenders*.—Every person, firm, or corporation whose principal business is lending money, and who has a fixed place of business for such purpose, shall pay an annual license of one hundred dollars, and this subdivision shall apply to all corporations engaged in the



business, whether organized under the laws of this state or any other state or country, but shall not apply to banks or banking institutions regularly organized as such; the payment of a tax in one county of the state, as evidenced by the license or official certificate of the probate judge, shall be sufficient.

(Amended special session.)

All corporations or mutual companies which have no capital stock, and all corporations which shall engage in this state solely in the business of lending money shall pay a fee of \$25.00. Amended,  
Special Session, Nov. 30,  
1907.  
page 201,

65. (57) *New companies*.—Each person, firm, or corporation engaged in the business commonly known as news companies, and selling books, papers, fruits, or confectionery or other articles on railroad trains operated within this state, shall pay annually a license tax of one hundred dollars, and the payment of this license in any one county in the state shall be sufficient, and it shall not be required in any other county in the state; and no county license shall be charged for any license issued under this subdivision. And any news company which shall have paid the license specified in this subdivision shall be entitled to receive from the state auditor upon exhibition to him of such license a certificate for each agent which it may employ for making such sales, and shall, whenever an inspection of the same is demanded by any officer authorized to collect state revenues, exhibit the same to such officer as evidence of his right to do business. And no agent of such news company shall carry on any such business or make any such sales unless he shall have such certificate with him. Any agent of any such news company who shall make any such sales or carry on any such business without having such certificate with him shall be subject to arrest, and shall upon conviction be fined ten dollars. Any news company which has As amended,  
March 4, 1903,  
p. 212.

paid for and taken out a license in any one county to sell cigarettes, cigars, and tobacco, or playing cards, shall be authorized to sell such articles on any train in the state in which they may run.

66. (58) *Oils*.—Each agency, person, firm, or corporation selling illuminating or lubricating oils, or fuel oils at wholesale, that is to say, in quantities of twenty-five gallons or more, shall pay a privilege or license tax to the state, of one-half of one per cent on their gross sales; and the state auditor is authorized and directed to collect and pay such privilege tax into the state treasury, and with the approval of the state tax commission may collect and receive a gross sum as said privilege or license tax from any corporation, firm, person, or agency selling oils in this state, and said gross sum may be so received and collected in place of and in full settlement of said license tax, so that oils upon which said gross sum has so been paid in full settlement shall not be subject to the license tax imposed by this section. And this license shall run as other licenses in the state, from January to January; provided the state tax commission may require sworn statements to be made by agencies, persons, firms, or corporations, of their gross amounts of sales for the previous calendar year, which may be accepted with the approval of the state tax commission for fixing the amount of said license for the current year. Any agency, person, firm, or corporation failing to make sworn statements when so required, forfeits to the state three times the amount of said license.

67. (60) *Patent rights*.—Each person who shall sell or offer to sell the right to manufacture, or use, any machinery or other thing patented under the laws of the United States, for each county in which he shall sell or offer to sell such patented machinery or other thing, five dollars.

As amended,  
March 4, 1903,  
p. 213.

As amended,  
March 5, 1901,  
p. 239.

68. (59) *Pawnbrokers*.—For each pawnbroker, one hundred and fifty dollars; but this shall not be construed to allow the sale of pistols, unless an additional license of fifty dollars is paid. As amended, March 4, 1903, p. 214.

69. (61) *Peddlers*.—For each peddler of medicine or other articles of like character, one hundred dollars for each county in which they peddle; fifty dollars of said amount to be paid to the county in which said license is paid, and fifty dollars to go to the state; and for each peddler of spectacles or eye glasses, five dollars for each county in which they peddle; for peddlers of medicine with vocal or instrumental music, or both, one hundred dollars for each county in which they peddle; for peddlers in wagon drawn by one horse, or other animal, twenty-five dollars; in a wagon drawn by two horses, or more, or other animals, thirty-five dollars; on a horse, or other animal, fifteen dollars; on foot, ten dollars; when accompanied by singers or performers on any musical instruments, one hundred dollars; but peddlers of tinware only, and peddlers of wooden and stone or clay hollow ware only, and tanners who manufacture leather goods and peddle these only, shall not be required to procure license. A peddler's license shall entitle him to peddle only in the county where it is taken out. Any person may demand of peddlers, itinerant dealers, and traveling agents their license, and unless they exhibit the same, or show that they have a right under the law to peddle the articles carried by them, or carry on the business they are engaged in without a license, such person may, and is hereby authorized, to arrest such peddler, itinerant dealer, or traveling agent, and carry him before the nearest county court judge, justice of the peace, mayor, recorder, intendant of any town, or notary public exercising the power of a justice of the peace, and such officer before whom such peddler, itinerant dealer, or traveling agent is carried must, if he finds

such person to be dealing without a license, forthwith issue a warrant for his arrest, returnable to any court of the county having criminal jurisdiction, which warrant may be executed by the sheriff, or by any constable of the county, any city or town marshal, policeman, or any officer having authority to make arrests. It shall, however, be lawful for any person having but one arm or leg, or whose sight has been impaired as a result of exposure, injury, or disease during his service in the Confederate army, or any other disabled Confederate soldier who is permanently disabled from any cause, or any person who has lost his eyesight in any way so that he is incompetent to perform manual labor, or any other person who is unable to perform manual labor (if he shall secure the certificate of a physician and the certificate of the judge of probate of such facts), to peddle in any county in the state free of license; nor shall this subdivision be so construed as to require a license of peddlers of fish, oysters, game, fresh meats, poultry, fruit, and all farm products raised by the seller. For each peddler of clocks doing business in this state, a license tax of five hundred dollars and a county license tax of two hundred and fifty dollars for each county in which such business is carried on. All the citizens of this state, who have resided here for five years, and who were soldiers of the Confederate States of America, or engaged in the naval service thereof, and do not own property exceeding in value one thousand dollars, may peddle any produce or merchandise in any and all the counties of this state, except in any incorporated village, town or city, without the payment of the license required of such peddlers. Any such soldiers or sailors desiring such licenses to peddle must apply to any judge of probate in this state, and make and submit his proof of having been such soldier or sailor, and if it is sufficient to satisfy said judge, he shall issue the license without payment of money therefor, and such license shall be authority to peddle such

commodities in any of the counties of this state; but there shall be no peddling of patent medicines by persons exempted from taking out a license to peddle.

70. *Peddlers of drugs; itinerant doctors.*—Any itinerant vendor of any drug, poison, ointment, or any appliance of any kind, intended for treatment of any disease or injury, who shall by writing or printing, or any other method, publicly profess to cure or treat diseases, or injury or deformity, by any drug, nostrum, or manipulation, or other expedient, shall pay a license of one hundred dollars per annum to the state. As amended, Feb. 18, 1897, p. 1450, § 6.

71. (62) *Photographers.*—For each traveling photograph gallery going from county to county in railroad car, twenty-five dollars; for each traveling photographer traveling in any other way, five dollars. Payment of this license tax in any county, evidenced by the receipt of the probate judge, shall relieve the party from further license tax for such business of that year. As amended, March 4, 1903, p. 216.

71a. *Pictures or picture frames.*—For each person, firm, or corporation, either in person or through agents, who solicits orders for the enlargement of photographs or pictures of any character, or for picture frames, whether they make charge for such frames or not; or for each person, firm, or corporation, either in person or through agents, who sells or disposes of picture frames, twenty-five dollars in each county in which they may do business; but this subdivision shall not apply to merchants or dealers having a permanent place of business in the state and keeping picture frames as a part or all of their stock in trade. March 7, 1907, p. 403, § 17.

72. (68) *Pig iron storage companies.*—Any person, firm, or corporation operating yards or inclosures for the purpose of storing pig iron therein, and issuing warrants thereon, or re- As amended, March 4, 1903, p. 217.



ceipts therefor, shall pay to the state annually for each such yard or inclosure, fifty dollars.

73. (63) *Pistols, bowie or dirk knives.*—For dealers in pistols, bowie or dirk knives, brass knucks, whether principal stock in trade or not, fifty dollars.

As amended,  
March 5, 1901,  
p. 242.

74. (64) *Pistol or rifle cartridges.*—Dealers in pistol or rifle cartridges, in towns or cities of twenty thousand or more inhabitants, fifty dollars. In towns of more than ten thousand and less than twenty thousand inhabitants, twenty-five dollars. In all other places, ten dollars.

As amended,  
March 4, 1903,  
p. 217.

75. (67) *Plumbers or gas fitters.*—For each person, firm, or corporation doing business of a plumber and gas fitter, or either, in towns and cities of ten thousand or more inhabitants, twenty-five dollars; in all other places, ten dollars.

As amended,  
March 5, 1901,  
p. 242.

76. (66) *Pool tables.*—For each pool table upon which the game of pin pool is played, one hundred dollars. For each table upon which a game of pool is played, with fifteen balls, more or less, and not pin pool, which is kept in connection with the business of a barroom or drinking saloon, whether compensation is charged or not, fifty dollars. For each table upon which a game of pool is played with fifteen balls, more or less, and not pin pool, for the use of which money or other things of value is charged, and not kept in connection with a barroom or drinking saloon, twenty-five dollars.

As amended,  
March 5, 1903,  
p. 217.

77. (65) *Public halls.*—For each public hall let to hire, in towns or cities of five thousand or more inhabitants, twenty-five dollars; of less than five thousand inhabitants and more than two thousand inhabitants, fifteen dollars; in all towns of two thousand inhabitants or less, ten dollars.

78. (69) *Race tracks*.—For each public race track, at or within five miles of any city or town containing less than five thousand inhabitants, one hundred dollars; at or within five miles of any city or town containing more than five thousand inhabitants, two hundred dollars. As amended, March 5, 1901, p. 243.

79. (70) *Railroad ticket broker*.—Each railroad broker, otherwise known as scalper, or other railroad ticket agent, except agents actually employed by some railroad, shall pay to the state the following license tax: In cities or towns of ten thousand inhabitants or over, one hundred dollars; in cities or towns of less than ten thousand inhabitants, fifty dollars.

80. (71) *Real estate brokers or agents*.—Each person, firm, or corporation engaged in buying, selling, or renting real estate on commission shall pay to the state the following license taxes: In cities or towns of ten thousand inhabitants or over, fifteen dollars; in cities or towns of less than ten thousand inhabitants and more than five thousand inhabitants, ten dollars; in all other places, five dollars. As amended, March 4, 1903, p. 217.

80a. *Pianos and organs*.—For each person, firm, or corporation engaged in the business of selling or delivering pianos or organs in this state, either in person or by agent, or consignee, one hundred dollars for each county in which they may so sell; but this license shall not apply to merchants or dealers having a permanent place or places of business in this state and keeping said articles as a part or all of their stock in trade. Such persons, firms, or corporations having a permanent place or places of business in this state and keeping said articles as part or all of their stock in trade shall pay to the state an annual license of one hundred dollars, to be paid in the counties in which such permanent place or places of business is established, and the payment of such license in such counties as evi- March 7, 1907, p. 403, § 11½.

denced by the official certificate of the judge of probate shall be sufficient, notwithstanding they may also sell in other counties.

As amended,  
March 5, 1901, p. 245. 82. (75) *Shooting galleries*.—For each shooting gallery, fifteen dollars.

83. (76) *Side shows*.—See circuses.

84. (73) *Skating rink*.—For each skating rink, twenty-five dollars.

March 4, 1903, p. 218. 85. (71 1-2) *Social clubs of men*.—Each social club at which spirituous, vinous, or malt liquors are sold at retail to members or others, or furnished to members, shall pay the same license as is required of other retail liquor dealers in the same vicinity, any provision in the charter of any such club exempting it from the payment of such license to the contrary notwithstanding. All laws and parts of laws, general or special, in conflict or inconsistent with the provisions of this subdivision, are hereby repealed.

March 7, 1907, p. 403, § 13. 85a. *Soda fountain*.—For each person, firm, or corporation operating a soda fountain, where non-alcoholic or soft drinks or beverages are dispensed, five dollars.

As amended,  
March 4, 1903, p. 219. 86. (77) *Stocks and bonds, dealers in*.—Each person, firm, or corporation dealing in stocks and bonds, thirty-five dollars.

As amended,  
March 5, 1901, p. 244. 87. (72) *Supply cars*.—The owner, conductor, or person in charge of every supply car, or car from which any goods, wares, or merchandise are sold, whether to the servants of the railroad company or to others, must pay a license of one hundred dollars; and the person so licensed shall thereby be entitled to carry on such business in the car therein named, in any county in which such car is run or drawn; but each such county may charge a license therefor of ten dollars.

88. (81) *Telephone companies*.—Each telephone company, person, firm, or corporation operating a telephone line or lines in towns and cities of twenty thousand inhabitants or more, <sup>As amended, March 4, 1903, p. 220.</sup> fifty dollars; in towns or cities of less than twenty thousand inhabitants and more than ten thousand inhabitants, twenty-five dollars; in towns and cities of less than ten thousand inhabitants and more than one thousand inhabitants, ten dollars; in all other places, five dollars. This tax shall not apply to private individuals who operate a line between private residences for private use and where no rental is charged. Provided that section 2084 (3912), subdivision 3, be repealed so far as the same relates to telephone companies.

89. (78) *Ten pin alleys*.—See bowling alley. <sup>As amended, March 5, 1901, p. 245.</sup>

90. (79) *Theatres*.—For each theater in towns or cities containing more than twenty thousand inhabitants, one hundred dollars; for each theater in towns or cities containing more than eight thousand inhabitants, fifty dollars; this amount, fifty dollars, shall also be charged for license for open-air or summer theaters, such as at Mobile on the bay shore; East Lake, in Jefferson county, and Electric Park or Pickett Springs, in Montgomery county; in towns or cities containing less than eight thousand and more than three thousand inhabitants, twenty-five dollars; in towns and cities of less than two thousand inhabitants, twenty dollars; this license shall only extend to dramatic, legerdemain, acrobatic, and operatic exhibitions given in the building so licensed, and if any doubt arises as to the character of the entertainment proposed to be exhibited in any theater, the judge of probate of the county in which the theater is situated shall determine whether or not it is covered by theatrical license.

91. (38) *Toll bridges*.—For each toll bridge, or bridges, or ferries, where thoroughfare tolls are charged for animals or vehicles crossing the same when not within two miles of the corporate limits of a town or city of two thousand inhabitants, where the income is more than three hundred and less than six hundred dollars per annum, five dollars; for same, in or within two miles of the corporate limits of any town or city of two thousand inhabitants and less than five thousand, fifty dollars; for same, in or within two miles of the corporate limits of a town or city of five thousand inhabitants or more, seventy-five dollars; but when the gross income of any ferry within two miles of the corporate limits of a town of over two thousand inhabitants does not exceed twelve hundred dollars, in any one year, the license for such ferry shall be twenty-five dollars.

As amended,  
March 7, 1907,  
p. 403, 18.

92. (82) *Warehouses*.—For each person, firm, or corporation operating a warehouse or elevator for the storage and handling of cotton, a license tax to the State as follows. Every such warehouse storing not more than ten thousand bales in any one year, twenty-five dollars; more than ten thousand and not more than twenty thousand, fifty dollars; more than twenty thousand and not more than thirty thousand bales, seventy-five dollars; more than thirty thousand bales, one hundred dollars.

As amended,  
March 5, 1901,  
p. 246.

93 (83). *Waterworks companies*.—See electric light companies.

In all cases in this section where population controls the price of licenses, the last census report of the federal government shall govern. The licenses herein set out are payable on the first day of January, and the amount of privilege tax levied in this section is intended as per annum tax, unless otherwise specified. Whenever any one has paid more license for the current year than is required by this section, they shall



be entitled to receive from the treasury of the State and county the excess of license so paid; but this shall not in any way interfere with subdivision 66 (58) of this section of this Code.

2362. (4123) (630) *License for county purposes; amounts, how determined.*—The court of county commissioners of each county except in the cases otherwise provided may at any regular or special term add to the license taxes specified in the last preceding section such amounts not exceeding fifty per cent of such taxes for county purposes as, in their judgment, may be necessary, and no license shall be issued without the payment of such percentage for county purposes.

Amended,  
Sept. 30, 1903,  
p. 298, § 4.

2363. *Lien of State for license taxes.*—The State and counties shall have a lien superior to all other liens upon the goods, wares, and merchandise used in any business for the doing of which a license is required by the State, which said liens may be enforced by attachment, in one and the same suit, and in the name of the State.

March 7, 1907,  
p. 403, § 23.

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## ARTICLE XIX.

### Franchise Tax of Common Carriers. 2364-2390.

2364. *Tax on franchises, intangible property, and assets of common carriers declared.*—There shall be subject to taxation in this State, the franchises, or intangible property and assets of each and every corporation, whether organized under the laws of this State or of any other State or government, and of each and every individual, association, partnership, or company engaged as common carrier wholly or partly in this State, in the business of transporting freight of any description or passengers, or both, over any railroad, including street railroads, or of operating any cars of any kind over any railroads for the

March 4, 1907,  
p. 284, § 1.

transportation of passengers or of property of any kind for others or for the public, including sleeping cars, parlor or palace cars, dining cars, chair cars of any and every other kind, or engaged in the business of maintaining or operating for gain any telegraph or telephone lines, plant, or business, or any plant or business for the production, manufacture, distribution, or sale of gas, electricity, electric light, electric power, water, steam heat, and refrigerated air, or other similar substances; by means of wires, pipes, or conduits constructed, operated, or maintained on, over, under, or through any territory or any street, alley, or highway in this State; or in the business of operating for gain any dockage, wharfage, canal, freight, or passenger depots, stations, or terminals; or engaged in any other business which may be dependent upon the grant of public powers or privileges, or which may involve the operation of any public utility; and of each and every individual, association, partnership, company, or corporation which has and exercises, under authority granted by charter, statute, or other provision of law, whether of this State, of any political subdivision thereof, or of any other State or government, any special or exclusive privilege, franchise, or function, which is or may be dependent upon the grant of public power or privileges, or which involves the operation of any public utility.

2365. *Franchise tax in addition to ad valorem tax; how levied and collected.*—Every individual, association, partnership, company, and corporation engaged in any business embraced or set out in the preceding section shall, in addition to the ad valorem taxes on tangible property which are now imposed upon them by law, annually, beginning with the year 1907, pay to the State, and there is levied a tax for the year 1907, and for each year thereafter, on their franchises, or intangible property and assets, and local taxes thereon, to each county and municipal corpora-

March 4, 1907,  
p. 284, § 2.

tion in which its or their business is or shall hereafter be carried on. Said tax shall be at the same rate as the tax on tangible property, and shall be and become due and delinquent at the same time as the taxes on tangible property, and be payable and collected in the same manner; and shall be assessed and levied in the manner hereinafter provided. The place or places where such local taxes on such property are to be paid, and the manner of the apportionment of the same in cases where more than one jurisdiction is entitled to a share of such tax, shall be determined, and the valuation of such property for taxation shall be ascertained in accordance with the provisions of this article.

2366. *Statement by common carriers to be made to State tax commissioner.*—On or before March 4, 1907, the first day of June, 1907, and between the first day of January and the first day of March in each subsequent year, every company, corporation, association, and individual embraced within the provisions of section 2364 of this article, or coming otherwise within its scope and intent, shall make out and deliver to the State tax commission of Alabama a statement containing the information hereinafter prescribed, which statement shall be duly verified by the affidavit of one of the officers of the company, corporation, or association, or by the individual in whose behalf it is made. p. 284, § 3.

2367. *Contents of such statement.*—Each such statement shall show the following items and particulars as the same stood on the next preceding first day of October, together with any other facts or information that may be called for by said commission:

1. The name and principal place of business of the company, corporation, association, or individual in whose behalf the statement is made, and the character of business engaged in.

2. If a company, association, or corporation, the State or government under the laws of which it was incorporated, or authorized to do business, the date of original organization, the date of the reorganization, consolidation, or merger, and the purposes of its incorporation as expressed in its charter or articles of association.

3. The place where all books, papers, and accounts are kept, and the names and postoffice addresses of the president, secretary, cashier, treasurer, superintendent, general manager, general counsel, directors, and all other general officers thereof.

4. The locality of its principal office and the total amount and kind of business done by it in this State, and the total gross receipts derived from its business in this State, including a due proportion of its interstate business, if it has done any business of that character.

5. Its total authorized capital stock and the number of shares of stock issued and outstanding, and the par or face value of each such share.

6. The market value of said shares of stock; if they have no market value, then the statement must show the actual value thereof, and the highest price at which any share has been sold during the next preceding twelve months.

7. A brief description of each tract of real estate and of the improvement thereon, and of the buildings, structures, machinery, fixtures, and appliances, and all other tangible property and assets owned and assessed, or liable to assessment for the same year, within this State, and the location and assessed value thereof, and the county, city, or town wherein the same is assessed for taxation for State and county and municipal purposes, or is liable to assessments.

8. A brief description of each tract of land and of the improvement thereon, and of the buildings, structures, machinery, fixtures, and appliances, and of all the other tangible property and assets owned and held outside of this State, and of all other property and assets having a fix-

ed situs outside thereof, and the location of each item of such property, and the purpose for which it is used, and whether or not it is specifically used in the business of the company, corporation, or association, or individual in whose behalf the report is made, and its true and fair market value, and the sum or value at which it is assessed for taxation, and the locality in which it is assessed.

9. A statement of each and every lien, mortgage, and other charge upon the whole or any part of the property of said company, corporation, association, or individual, and detailed statement of all series of bonds, debentures, or other securities forming a part of its funded debt, with date of issue, maturity, and rate of interest, together with a statement of the property encumbered or charged thereby, and of the total amount of unpaid debts secured by each such mortgage lien or charge, and of the interest charged thereon, and to what extent interest has been paid, and the true and fair market value of every such debt.

10. A statement of the gross income and earnings and a statement of the net income and earnings for the next preceding twelve months, including therein all interest on investments, and all rents, fruit, revenues, and receipts from every source whatsoever, and a statement of the income used for repairs, and of the amount used for betterment and the amount used for extensions.

11. Every railroad company and telegraph company, and every telephone company and every pipe line company, shall show in each statement made by it the following particulars, which are in addition to the foregoing requirements, to-wit: (a) the total lengths of all the lines of said company, whether within or outside this State, and (b) the total length of so much of said lines as are within this State, and (c) the length of its lines in each of the counties and cities or towns of this State into or through which its lines extend. The length of the lines of the telegraph



companies and telephone companies shall be estimated and stated according to its mileage of poles, conduits, or cables, or either.

12. Every sleeping car company, parlor or palace car company, dining car company, chair car company, and company operating cars of any and every other kind over any railroad, shall also, and in addition to the said foregoing requirements, show by each of its said statements, (a) the total mileage traveled by the cars of the said company during the next preceding twelve months, whether within this State or beyond its borders, and (b) the total mileage traveled by such cars within the State during the same period, and (c) the total mileage traveled by such cars within each county and each city or town in this State during said period.

March 4, 1907,  
P. 284, § 4.

2368. *Additional statement for express companies.*—Every express company shall also, in addition to the foregoing requirements having application to such company, show (a) its total gross receipts from all business done under its charter, whether within this State, or outside thereof, during the next preceding twelve months, and (b) its total gross receipts within this State for the same kind of business done during the same period including a due proportion of receipts from interstate business, and (c) its total gross receipts in each county or town in this State for the same kind of business done during the same period.

2369. *State tax commission receives statements and demands additional ones.*—The State tax commission of Alabama shall receive all such statements offered to it under the provisions of this article, and shall endorse upon each the date on which it was received, and sign the endorsement officially. It shall examine the statements as soon as may be practicable, and if any of them be found to be insufficient, or if said commission shall believe other or further information to be

necessary, it shall at once demand such additional statements and information as it may think proper.

2370. *Hearing and proceeding of tax commission upon examination of statement by common carriers.*—The State tax commission shall carefully examine and consider the said statements and information, and shall hear evidence and secure further and additional information so far as may be in its power, and whenever it may deem it necessary so to do, to show the true value of the properties of such corporations, companies, and individuals, and the true value of that portion thereof which is situated within this State and within the respective counties and cities and towns in this State; and each interested company, corporation, association, or individual may appear before said commission and introduce material and relevant testimony before the same, touching the true value of its said property within this State and the apportionment thereof. From these statements, evidence and information adduced before it the State tax commission shall ascertain, fix, and determine the true value of such property, and of the portion thereof which is situated within this State, and the respective values of the several portions within the different counties and cities or towns in this State in which such portions are taxable, and for that purpose said commission may require and compel by subpoenas to be issued by it any person or persons, or the officers and agents, or any of them, of any company, corporation, or association embraced within the provisions of this article, to appear before it with such books, papers, documents, and information as the commission may require, and to submit themselves to examination by said commission, and it shall have all the powers with respect thereto conferred upon it by the article creating said commission.

March 4, 1907,  
p. 284, § 7.

2371. *Market or true value of stock and of indebtedness and property as basis of fixing taxable value.*—In so far as the other evidence and information adduced before said commission does not make it appear to said commission improper or unjust for them so to do, the said commission shall, in fixing the true tax value of the entire property, tangible and intangible, of any company, corporation, association, or individual embraced within the provisions of this article, take as a basis therefor the aggregate market or true value of all its shares of stock—, and add thereto the market or true value of its entire indebtedness secured by any mortgage, lien, or other charge upon its property and assets, and the sum so produced shall be deemed and treated as the true cash value of said entire property, tangible and intangible.

2372. *Assessed value of tangible property deducted from entire value.*—From the value of said entire property, tangible and intangible, thus ascertained, there shall be deducted the assessed value of the entire tangible real and personal property of such person, association, company, or corporation, and the remainder of true value be by said State tax commission fixed and determined as the true value for taxation of the franchises, or intangible properties owned and held by said persons, associations, company, or corporation, and made subject to taxation by the provisions of this article where the business and property of such person, association, company, or corporation is within this state.

March 4, 1907,  
p. 284, § 7.

2373. *Common carriers doing interstate business; tax value; how fixed.*—Where the person, association, company, or corporation operates a railroad or car line of any kind, or telegraph line, or pipe line, the lines of which extend beyond this State, there shall also be deducted from the true cash value of the entire property, tangible and intangible, ascertained

as above provided, the market or true value, ascertained from the information furnished by said statements, if the value thereof be given in said statements, of all real and personal property of said person, association, company, or corporation not specifically used in its business, and the remainder shall be treated as the true cash value of all its property, tangible and intangible, actually used in this business. The State tax commission shall then ascertain and fix the value of the total property, tangible and intangible, in this State by taking such proportion of the cash value of the entire property, tangible and intangible, of such person, association, company, or corporation which is specifically used in its business, ascertained as provided in this article, as its total lines within this State bears to the total lines both inside and outside of this State, or as its total receipts from within this State, bears to its total receipts from both within and without this State. From the entire value of the property within this State, tangible and intangible, when ascertained as above provided, there shall be deducted the total assessed value for taxation of the entire real and personal property of said person, association, company, or corporation in this State, and the residue and remainder of value shall be by said State tax commission fixed and determined as the true value for taxation of the franchise or intangible property of such person, association, company, or corporation so operating said railroad, car line, telegraph line, telephone line, or pipe line made subject to taxation by the provisions of this article.

2374. *Taxes and values apportioned among the several counties and towns of this State.*—The state tax commission shall apportion the value of such franchises or intangible property thus ascertained as in this article provided, among and between the counties and cities or towns in which such person, association, company, or corporation does

business, in proportion to the amount of business done in and receipts derived from each locality, except that in a case of a railroad or railway company, telephone and telegraph company, and electrical power companies, car company other than express companies, or of a pipe line, the apportionment to each county and to each city or town shall be in addition to the line mileage or car mileage therein.

March 4, 1907,  
p. 284, 2375. *Other modes of fixing values may be adopted by commission.*—The State tax commission shall make use of all evidence put before it, and of all material facts at its command, in valuing the aforesaid properties, and if it shall believe some other method of calculation than that herein specifically prescribed is necessary in order to produce just and lawful results, it shall follow the method which, under all the circumstances, it believes best calculated to bring about a fair and equitable valuation of such property.

2376. *Notice to common carriers of tax valuation fixed; service of.*—Within twenty days after making the valuation of any such franchises or intangible property, the State tax commission shall give notice in writing by registered mail, addressed to or by personal service on any officer, superintendent, cashier, or manager of the owner of said franchises or intangible properties, stating the valuation fixed by it and that on a day specified, not less than twenty nor more than thirty days thereafter, it will meet to hear and determine any complaint against said valuation, which notice must be served at least ten days before the day fixed for the hearing.

2377. *Owner may file statement and have hearing or investigation fixing tax value.*—At the hearing the owner may file a statement, under oath, specifying the respect in which the valuation is incorrect, upon which testimony may be taken and a full investigation had.



2378. *Appeal from hearing to circuit court by owner.*—From the final decision of the commission on the hearing the owner may appeal to the circuit court, or court of like jurisdiction, of Montgomery county, within thirty days, upon giving bond with two sureties, to be approved by the State tax commission and payable to the State of Alabama, in double the amount of State and county taxes lawfully due or to become due on such assessment or valuation as finally determined on said hearing, conditioned to prosecute said appeal to effect and to pay all lawful taxes which may be held by the court to be or became due on said franchises or intangible property, according to such valuation as may be determined by the court. The trial upon said appeal shall be de novo, and the court shall render judgment against appellant for such taxes as may be or become lawfully due on said property.

2379. *Appeal by either party to supreme court.*—From the judgment of said court either party may appeal to the supreme court within thirty days from the rendition of said judgment.

2380. *Individuals as common carriers; capital or property used in business deemed capital stock.*—Whenever any person or association of persons, not being a corporation and having no capital stock, shall engage in this State in any character of business embraced within the provisions of this article, the capital and property, or the certificates or other evidences of the rights or interests of the persons engaged in such business, shall be deemed and treated as the capital stock of such person or association of persons for the purpose of taxation and for all purposes under this article, and shall be estimated and valued, and the intangible property values thereof, when ascertained, shall be apportioned and distributed and assessed and taxed under the provisions hereof, in like manner as if such person

March 4, 1907,  
p. 284,

or association of persons were a corporation, and each such person and association of persons shall annually, within the time and in the manner provided in this article, make the statements and reports and give the information required by this article of the aforesaid companies, corporations, and association, and shall be subject to all the penalties and to all the terms and provisions of this article.

2381. *Report of State tax commission to tax assessors in various counties; contents of.*—The State tax commission, after having first determined and fixed the true cash values of the franchise or intangible property within this State of the individuals, companies, corporations, and associations embraced within the provisions of this article, in accordance with the provisions hereof, shall annually, on or before the first day of July, or as soon thereafter as practicable, report to the tax assessor of every county and local authorities of each city or town in this State in which any part of said franchise or intangible property is taxable under the provisions of this article, a description of the franchise or intangible property taxable therein, and the value thereof apportioned to said county and to said city or town, and the name and residence or place of business of the owner, and all other necessary particulars.

2382. *Assessment and collection by county.*—The said property shall thereupon be assessed by the county tax assessor and local authorities of such city or town for taxation in like manner as other property, and shall be taxed and the taxes thereon shall be collected as in the case of other property.

2383. *Effect of franchise tax upon ad valorem tax and tax upon shares of stock in corporation.*—So long as any corporation, company, or association shall pay all ad valorem taxes on such

property required by law, the individual stockholders thereof shall not be required to list their shares of stock for taxation, or to pay ad valorem taxes on said shares, nor shall any such company, corporation, association, person, or persons complying with the provisions of this article be required to pay any other State, county, or city ad valorem taxes on any of its intangible property in this State.

2384. *Failure to comply with provisions of this article; forfeiture and penalty for.*—Every <sup>March 4, 1907,  
p. 284.</sup> person and association of persons, and every company, corporation, or association embraced within the provisions of this article which shall fail to make the return and statement or any of them herein provided within the time herein limited, or which after reasonable notice shall fail to give any additional evidence or to furnish any additional information required by the State tax commission by authority of this article, shall forfeit and pay to the State the sum of fifty dollars for every day during which it shall continue in default, which shall be recovered by suit in any court of competent jurisdiction in any county in this State in which the business of such person, association, company, or corporation is carried on.

2385. *Tax commission may acquire information from other sources.*—If any person, association, company, or corporation embraced within the provisions of this article shall fail to make the returns and statements, or any of them, required by the provisions of this article, or to furnish any other information lawfully required of it within the time limited, the State tax commission shall acquire the necessary information from any other source upon which to base an ascertainment of the value of the intangible property or franchise of such person, association of persons, company, or corporation, and shall proceed to ascertain the value of such property.

2386. *Property in hands of receiver, assignee, trustee, etc.*—If the property of any person, association, company, or corporation shall be in the hands of any receiver, assignee, trustee in bankruptcy, or other person holding under any court, or for the benefit of any creditor or creditors, then the statements, reports, information, books, and papers aforesaid shall be furnished by said receiver, assignee, trustee, or other persons, or by some officer or agent acting under him, in the same manner and to the same extent as is hereinbefore provided in cases where the individual, or the corporation, company, or association is in possession.

2387. *Exceptions from tax on gross receipts.*—Upon the compliance with the provisions of this article by the individuals, companies, corporations, and associations hereby affected, and upon the payment of the taxes imposed hereunder, if any are imposed, said individuals, associations, companies, or corporations shall not be required to pay any taxes upon their gross receipts.

March 4, 1907,  
p. 284,

2388. *State board of assessment may perform duties of State tax commission.*—In the event there shall not be a board known as the State tax commission in this State, the returns herein required to be made to said commission shall be made to and all the powers herein conferred on and duties required to be performed by said State tax commission, are conferred on and required to be performed by law to assess the tangible property of railroad and other companies, or any board or official hereafter created for such purposes.

2389. *Form and sufficiency of tax assessments under this article.*—In any assessment by State, county, or municipal authority of the franchise or intangible property of any person, association, company, or corporation subject to the provis-



ions of this article, it shall be sufficient to describe the franchise or intangible property herein made subject to taxation on the assessment books or rolls as ———. The portion of ——— (name of county or city or town) of the franchise or intangible property of ——— (name of owner of such franchise or intangible property.)

2390. *Suit or action for collection of taxes.*—In cases where there is no provision of law authorizing the collection of taxes by suit, the taxes which shall become due under the provisions of this article to any county, city, or town may, after the same shall become delinquent, be collected by any county, city, or town by suit in any court of competent jurisdiction.

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## ARTICLE XX.

### Franchise Tax on Foreign Corporations. 2301-2400.

2391. *Franchise tax required of foreign corporations.*—Every foreign corporation authorized to do business in this State, except strictly benevolent, educational, or religious corporations, shall pay annually to a judge of probate of a county in which it has a resident agent, a franchise tax for the use of the State and for the amounts specified in the next succeeding section.

2392. *Classification of foreign corporations; amount of franchise tax required of each class.*—

1. Each foreign corporation whose actual amount of capital employed in this State is one hundred dollars or less, shall pay an annual franchise tax of twenty-five per cent of the actual amount of capital employed in this State by it.

2. Each foreign corporation whose actual amount of capital employed in this State exceeds one hundred dollars and does not exceed



one thousand dollars, shall pay an annual franchise tax of twenty-five per cent upon the first one hundred dollars of the actual amount of capital employed in this State by it, and five per cent upon all such remaining actual amount of capital employed in this State by it over one hundred dollars and up to and not exceeding the said limit of one thousand dollars.

3. Each foreign corporation whose actual amount of capital employed in this State exceeds one thousand dollars, shall pay an annual franchise tax of twenty-five per cent on the first one hundred dollars of such actual amount of capital employed in this State by it, and five per cent upon all such actual capital employed by it in this State in excess of one hundred dollars and up to and including one thousand dollars, and one-tenth of one per cent upon all such remaining actual amount of capital employed in this State by it over and above one thousand dollars.

2393. *Written statement required of corporation as to franchise taxes; contents of such statement.*—The president or other executive head and the secretary of every foreign corporation subject to a tax under this article, shall make a written statement, under oath, to the judge of probate, showing the name of the corporation, the State or country under whose laws it was incorporated, its principal place of business in this State, the total amount of its capital stock, the actual amount of capital employed in this State, if it is a corporation at the time of the statement authorized to do business in this State, or the actual amount of capital it is proposed shall be employed in this State, if it is a corporation not then qualified to do business in this State.

:2394. *Probate judge may review and revise statement as to amount of capital employed.*—The judge of probate with whom any such state-

ment is filed may summon before him any of the officers of the corporation, or any other witness, and swear and examine them, and inspect any of the books, papers, or documents of the corporation, and for that purpose may compel their production as courts of equity might do; and if he is satisfied from the evidence thus obtained that the amount of the capital of the corporation actually employed or to be employed, as the case may be, in this State is placed in the statement at a less amount than it should be, he shall demand payment of the tax upon the amount of capital which he finds is actually employed or to be employed in this State.

2395. *Appeal from finding of probate judge as to amount of capital.*—Either the State or the corporation may appeal from the finding of the probate judge to the circuit court in the same manner as may be done when any court of county commissioners passes upon a contested assessment of property for taxation, and the proceeding subsequent to the appeal shall be the same as in such cases. March 7, 1907,  
p. 364,

2396. *Payment of franchise tax requisite to do business.*—No foreign corporation required to pay a tax under this article shall do any business in the State of Alabama not constituting interstate commerce, or maintain or demand any action in any of the courts of this State upon a contract made in this State other than contracts based upon interstate commerce, unless such corporation shall have paid such tax within sixty days after the same became due.

2397. *Payment in one county only.*—The payment of the franchise tax required by this article in any one county shall be sufficient, notwithstanding the said corporation may do business or have a resident in more than one county.

2398. *Not exempt from certain license or privilege taxes.*—The payment of the franchise

tax required by this article shall not exempt any corporation paying the same from the payment of the regular license or privilege tax specified or required for engaging in or carrying on any business for the engaging in or carrying on of which a license is required of individuals, firms, or corporations.

2399. *County franchise tax.*—In addition to the amount of franchise tax required to be paid by each foreign corporation to the State, such foreign corporation shall pay to the county for the use of such county an amount equal to one-half the amount paid by it to the State, and such amount so received shall be paid over by the probate judge to the county treasurer for the use of the county.

July 27, 1907,  
p. 521.

2400. *Loans of money upon which mortgage tax is paid deducted from capital employed.*—In ascertaining the amount of the annual franchise tax which shall be paid by any foreign corporation doing business in this State under this article, there shall be deducted from the amount of the capital employed by such corporation in this State the aggregate amount of loans of money made by such corporations in this State, and which shall be secured by existing mortgage or mortgages to it on real estate in this State, and upon which mortgages there shall have been paid the recording privilege tax provided by law.

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## ARTICLE XXI.

Issue and Expiration of Licenses; Blanks and Forms; Records, Payments and Reports; Refunding License Money. 2401-2412.

2401. (4124) (631) *Unlawful to engage in certain businesses without license.*—It shall be unlawful for any person, firm, or corporation to

engage in or carry on any business, or do any act for which a license is by law required, without having first paid for and taken out a license therefor in the manner in this chapter provided.

2402. (4125) (632) *Payment for, and issue and contents of license.*—Before any person, firm, or corporation shall engage in or carry on any business or do any act for which a license is by law required, he or they shall pay to the judge of probate of the county in which it is proposed to engage in or carry on such business, or do such act, the amount required for such license; and upon payment of such amount, and a fee of fifty cents to the probate judge for the issuance of such license and all costs and fees and penalties which shall have accrued, or for which such person, firm, or corporation shall have become liable in any proceedings commenced for the collection of such license, or to enforce payment thereof, such judge shall issue the license countersigned by him in the form and on a blank to be furnished to him by the State auditor, which shall set forth and specify the name of the person, firm, or corporation applying therefor, the business or act which it is proposed to carry on or do thereunder, the number of the location where it is proposed to carry on the same, if such location shall be in a city or town and have a street number, and if not, then specify the location, the amount paid for such license, and the time for which it is issued; and if the license is for a peddler, whether he proposes to travel on foot or on horseback, or on a wagon; and such license shall not be transferable, nor shall it entitle the holder thereof to carry on any other business or do any other act than that named therein, nor at any other location than that therein specified.

2403. (4126) (634) *Expiration of licenses; time for which issued; exceptions.*—All licenses shall expire on the thirty-first day of December, in each year, and shall be for one year, unless

the business licensed shall commence after the first of July, in which case the price of the license shall be half the amount of the year's license.

2404. (4128) (636) *Licenses to retailers posted; penalty for failure.*—All licenses for the retail of spirituous, vinous, or malt liquors must be kept posted up in plain sight near the bar; and a failure to comply with this section forfeits the license.

2405. (4129) (638) *Forms of licenses prepared by auditor; blanks furnished judges of probate.*—It shall be the duty of the State auditor, with the approval of the governor, to prepare and have printed suitable forms of licenses, and, as often as need be, to furnish to the several judges of probate blank licenses, signed by him, sufficient for the probable wants of their respective counties, taking their receipts for the same. Each such blank shall have a stub attached thereto on which shall be printed such matter as the auditor may prescribe, with appropriate blank spaces to be filled in by the judge of probate upon the issuance of any license. The auditor shall take and file in his office a proper receipt from the judge of probate for the licenses so furnished him.

2406. (4130) *Stub to be filled up and signed before detaching license.*—Upon the issuance of any license the judge of probate must, before detaching the license from the stub, fill up the blank spaces in the stub to correspond in all respects with the license as issued, and sign his name thereto.

2407. 4131) (637) *License record to be kept; annual report and return of unused licenses and stubs; examination by auditor.*—The judge of probate shall keep, in a book prepared for that purpose, an accurate account of all the licenses received by him from the State auditor and of



the disposition made of them, and of all money received from licenses by him issued, and make report thereof to the State auditor within ten days after the first day of January of each year, at which time he shall return to the State auditor all unused licenses and stubs for any year preceding, or account to the State auditor for all such unused licenses, and shall also return to the State auditor the stubs of all licenses issued for any year preceding; and the judge of probate shall, on demand of the State auditor, at any time, exhibit to him or to any agent appointed by the State auditor for that purpose, such license record and the originals of all licenses then remaining in his hands and all stubs of licenses issued.

2408. (4132) (633) *License money to be promptly paid over, else no commissions allowed; monthly reports; penalty.*—During the month in which any license money is received by the judge of probate, he must remit to the State treasurer, at the expense of the State, all money received by him for licenses belonging to the State, and pay to the county treasurer all the money received by him for licenses belonging to the county; and upon all such money so remitted or paid during the month of collection, he is entitled to two and one-half per cent, which he may deduct therefrom; but he shall not be allowed any commission on any money not so remitted or paid; and on the last business day of each month the judge of probate shall forward to the State auditor a certified list of all licenses issued by him, stating therein for what business issued, the amount collected for each license, from whom collected, the date thereof; and if no licenses have been issued he shall report that fact. If any judge of probate fails to comply with the provisions of this section within ten days after the date at which he is required to make a report of licenses issued and money received by him, the auditor shall forthwith report the facts to the

governor, who shall cite such judge to show why he has not made returns of such certified lists of licenses, as required by law; and if such judge fails to show sufficient cause for such failure, the governor shall direct the attorney-general to institute impeachment proceedings against him before the supreme court.

2409. (4133) *Auditor to furnish copies of license reports to solicitors; duty of solicitors and grand juries.*—On the first days of February and August in each year the State auditor shall furnish to the solicitor of each circuit certified copies of all reports of licenses for each of the two quarters immediately preceding, filed in the State auditor's office from the counties composing the judicial circuit in which such solicitor is prosecuting officer; and such certified copies of license reports shall be by the solicitor laid before the grand jury in each of said counties at the term of the circuit court next ensuing; and it shall be the duty of the grand jury to compare carefully such copies of license reports with the license book required by law to be kept in the office of the judge of probate, and if any errors or omissions are found, to make report of the same to the presiding judge in their regular report. In counties where the circuit court has no grand jury, this report shall be made to the county solicitor, and shall be laid before the grand jury of the city or criminal court by such county solicitor, which grand jury shall perform the duties hereinabove required of grand juries in the circuit court.

2410. (4134) (3894) *Judge of probate to furnish solicitor with list of licenses issued.*—The judge of probate must, on the first day of each circuit or city court of the county, furnish to the acting solicitor, to be by him laid before the grand jury, a statement in writing showing the licenses granted and the taxes received thereon within the last twelve months preceding such

court, to whom, and for what business such license was granted.

2411. (4135) *When license money refunded.*—When any person has taken out and paid for a license to carry on any business in this State, and has afterwards been prohibited by law from carrying on such business before the time named in the license has expired, such person shall be entitled to have refunded to him such proportionate part of the whole sum paid for such license as the unexpired time thereof bears to the whole time for which the license was originally granted.

2412. (4136) *Application therefor; how money refunded.*—On the application of any such person, his executor, administrator, or assigns, the judge of probate for the county in which such license was taken out shall proceed to ascertain the amount due such applicant under the provisions of the preceding section, and shall grant such certificates as will enable the State auditor and court of county commissioners to draw his warrant, or their order, respectively, and such warrant or order shall be paid out of any moneys in the State treasury or county treasury, respectively, not otherwise appropriated.

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## PENAL SECTIONS.

6836. *Embezzlement by Tax Collector in Failing to Make Returns and Forward Tax Money.*—Any tax collector who fails to make return and forward the tax money in his hands, from time to time, to the proper authorities, as provided by law, except for good cause, is guilty of embezzlement of public funds, and is liable on conviction to a fine not exceeding ten thousand dollars, and imprisonment in the penitentiary not exceeding two years.

6838. *Embezzlement by Public Officers.*—Any probate judge, clerk of a court of record, register in chancery, sheriff, coroner, tax collector, county treasurer, trustee of public schools, notary public, justice of the peace, constable, or other public officer, who knowingly converts to his own use, or permits another to use any of the revenue of the State, or of any county thereof, or any money paid into his office, or received by him in his official capacity, is liable to indictment, and, on conviction, must be punished as if he had stolen it.

6839. *Prima Facie Evidence of Embezzlement by Tax Collector under Preceding Section.*—The failure of any tax collector to pay over or produce any money collected by him, either as State or county taxes, after demand by the State or county treasurer, shall be *prima facie* evidence against such tax collector of embezzlement by him.

6932. *Fraudulently Obtaining Duplicate Warrants on State Treasurer.*—Any person who fraudulently obtains from the State auditor any duplicate warrants upon the treasury of the State must, on conviction, be punished as if he had stolen the amount specified in the warrant.

7099. *Who May be Impeached; Grounds of Impeachment.*—The following officers may be impeached and removed from office, to-wit: Chancellors, judges of the circuit or city courts, judges of probate courts, solicitors of the circuits, judges of the inferior courts from which an appeal may be taken direct to the supreme court; sheriffs, clerks of the circuit, city or criminal courts, tax collectors, tax assessors, county treasurers, coroners, justices of the peace, notaries public, constables, and all other State officers, not named in section 173 of the Constitution, and all other county officers, and mayors and intendants of incorporated cities and towns in this

State, for the following causes, to-wit: Wilful neglect of duty, corruption in office, incompetency, or intemperance in the use of intoxicating liquors or narcotics to such an extent in view of the dignity of the office and importance of its duties as unfits the officer for the discharge of such duties, or any offense involving moral turpitude while in office, or committed under color thereof, or connected therewith.

7442. *Failure or Neglect of Duty Under Revenue Law not Otherwise Provided.*—Any officer, on whom any duty is imposed by the revenue law, who fails or neglects to perform such duty, if there is no other punishment provided for such failure or neglect, must, on conviction, be fined not less than twenty nor more than one thousand dollars.

7443. *Dealing in State Securities.*—Any tax collector or other person, engaged in collecting the revenues of the State who buys, sells or otherwise trades in State warrants, State certificates, or other securities of the State, must, on conviction, be imprisoned in the penitentiary for not less than one, nor more than five years, and fined not less than fifty nor more than one thousand dollars, one or both, at the discretion of the court.

7457. *Wilful Neglect of Duty by Judge of Probate.*—Any judge of probate, who knowingly and wilfully does any act contrary to the duties of his office, or knowingly omits or refuses to perform any duty required of him by law, must, on conviction, be fined not more than two hundred dollars, if there be no other punishment prescribed for such act or omission, and be removed from office.

7473. *Failure of Sheriff to Keep Books, Etc., Showing Accounts for Feeding Prisoners, etc.*—Any sheriff who fails to enter into a book kept



by him for that purpose, any account paid him by the State for feeding prisoners, or to keep such book in his office as one of the public records thereof, or to lay the same before the grand jury at each term of the circuit or city court held in his county, or upon the expiration of his term of office, to turn the same over to his successor, as required by law, is guilty of a misdemeanor.

7474. *Sheriffs Receiving Unlawful Pay for Feeding Prisoners.*—Any sheriff who knowingly receives from the State for feeding a prisoner, or prisoners, any sum of money to which he is not lawfully entitled, must, on conviction, be punished as if he had stolen it.

7475. *Failure of Sheriff to Pay Over Costs Taxed for Removing Prisoners.*—Any sheriff who having collected on execution or otherwise from any defendant convicted for a criminal offense, the fees or compensation allowed to sheriffs, as mileage for themselves, guards and prisoners, or removing such defendant under the order of any court or judge upon a change of venue, or which such defendant is arrested and confined in a county other than that in which he is triable.

7458. *Probate Judge Failing to Collect Recording or Registration Tax Upon Mortgages, Deeds of Trust, etc.*—Any probate judge who shall file for record or shall record any mortgage, deed of trust, or other instrument in the nature of a mortgage without collecting the recording or registration tax provided for the recording or registration of such instruments, or who shall fail to certify the fact that said tax has been paid before the filing and recording of such instrument, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten nor more than one hundred dollars.

7459. (3990) *Probate Judge, Failure to Keep Abstract of Mortgages.*—Any probate

judge who fails to keep an abstract of mortgages or other instruments intended to secure the payment of moneys which are filed in his office for record, as he is required by law to keep, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not less than ten nor more than five hundred dollars.

7461. *Failure of Clerk to Receipt for and Pay Over Money Collected for Feeding Prisoners.*—Any clerk of the circuit or city court who fails to give to the officer paying to him any money collected for feeding prisoners in jail a receipt in duplicate therefor, or to pay over to the State treasurer, any such money so received by him, as required by law, is guilty of a misdemeanor.

7464. *Neglect of Duty by Clerk or Register.*—Any clerk of any court of record, or register in chancery, who fails to perform any duty imposed upon him, for the failure to perform which no other punishment is provided, must, on conviction, be fined not exceeding two hundred dollars.

7486. *Failure of Tax Assessor or Deputy to Administer Oath to Tax Payer.*—Any tax assessor or deputy tax assessor who returns the tax list of any tax payer as having been sworn to by such tax payer, when in fact it was not sworn to, is guilty of a misdemeanor. This section must be given in a special charge to the grand jury, and it is their duty, whenever the evidence justifies it, to return an indictment against such tax assessor or deputy tax assessor.

7545. *False Oath by Tax Payer.*—Any person, who, having taken oath required by law to be administered to him by the tax assessor or his deputy, before proceeding to list property, and other subjects for taxation, wilfully and corruptly answers falsely any lawful question which such assessor or his deputy may put to him touching the return of property and other subjects of taxation, or wilfully and corruptly makes

a false return of the property and other subjects of taxation required by law to be by him returned for taxation, is guilty of perjury, and must, on conviction, be imprisoned in the penitentiary for not less than two nor more than five years.

7712. *Engaging in or Carrying on Business Without License.*—Any person who, after the fifteenth day of January in any year, engages in or carries on any business for which a license is required, without having taken out such license, must, on conviction, be fined three times the amount of the State license.

7713. *Selling Lightning Rods Without License.*—Any person who sells lightning rods for himself or as agent for another, without payment of the tax required by law, must, on conviction, be fined not less than one hundred nor more than five hundred dollars.

7714. *Engaging in Business as Mercantile Agent for Unlicensed Agent.*—Any agent or correspondent of any unlicensed person, partnership or corporation, engaging in the business of inquiring into, and reporting upon the credit and standing of persons doing business in this State, who makes any report to, or transacts any business for his principal, must, on conviction, be fined not more than five hundred dollars.

7715. *Acting as Agent for Unlicensed Foreign Insurance Company.*—Any person who acts as agent for any unlicensed foreign insurance company must, on conviction, be fined in a sum equal to the State, county and municipal tax required to be paid by such company for license, and five hundred dollars in addition thereto; and, on a second or third conviction, must be fined one thousand dollars, and may be imprisoned in the county jail or sentenced to hard labor for the county for six months.

7716. *Sales of Bankrupt or Insolvent Goods.*

—Any person, firm, or corporation or agent, who shall sell or offer for sale any goods, wares, merchandise, or other personal property which is advertised and published as a bankrupt, insolvent, insurance assignee, trustee, testator, executor, administrator, receiver, auction, syndicate, railroad or other wreck, or other closing out sale, or as goods damaged by smoke, fire, water or otherwise, or who offers such goods, wares, or merchandise for sale under such advertisement, publication or notice, without obtaining a license as required by subdivision 42 (37 1-2) of section 2361 (4122) of this Code, or who makes a false affidavit or statement for the purpose of obtaining a license to carry on such sales, shall be guilty of a misdemeanor, and, upon conviction, shall be fined not exceeding five hundred dollars, and may also be imprisoned in the county jail or sentenced to hard labor for the county for a period not exceeding one year.

7717. *False or Fraudulent List by Tax Payer.*

—Any tax payer or other person whose duty it is to return tax list, who renders a false or fraudulent tax list, must on conviction, be fined not less than fifty nor more than two hundred dollars, at the discretion of the court; and it is the duty of the assessor to present all persons so offending to the first grand jury thereafter.

7718. *Failure of President or Cashier of Bank to Make Returns to Assessor.*—Any president or cashier of any bank or banking association who fails or refuses to make out, swear to and deliver to the tax assessor the statement required by subdivision 8 of section 3911 of this code, within the time therein prescribed, must, on conviction, be fined not less than two hundred dollars, and may also be sentenced to hard labor for the county for not more than three months.

7719. *False Affidavits or Certificates.*—Any person who shall, knowingly, make any false affidavit or certificate for the purpose of, or in connection with, obtaining or procuring a license to carry on a business in this State for which a license is required, shall be guilty of a misdemeanor, and, upon conviction, when not otherwise specially provided for in this Code, shall be fined not less than one hundred nor more than one thousand dollars, and at the discretion of the court, may be sentenced to hard labor for the county, or imprisonment in the county jail not to exceed six months, as additional punishment.

7720. *Refusal of State Officers to Allow Tax Commissioner Access to Books of Office.*—Any revenue officer of the State who refuses to allow the State tax commission, or the agents or deputies thereof, full and free access to all books and records belonging to or pertaining to his office, shall be guilty of a misdemeanor, and, on conviction, shall be fined not less than ten nor more than one hundred dollars.



# INDEX.

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## ABSTRACT—

	PAGE.	SEC. CODE.
Judge of Probate to make abstracts of all real and personal property for Auditor and Collector --	61	2157
Of escaped taxes must be reported by collector	77	2196
Of tax commissioners' assessments must be certified to Auditor by Judge of Probate	102	2267

## ADVERTISEMENTS—

Of Assessor's appointments	37	2103
Of book of assessment ready for inspection	55	2147
Of Collector's appointments	66	2169
Of notice to non-resident	105	2273
Of notice to owner unknown	106	2274
Newspapers in which notices shall be given	106	2275
Of tax sales by Collector	108	2279
Of sales; wording of advertisement	111	2287
Part paid for by State	111	2287
Part paid for by Collector	111	2287

## ASSESSMENTS—

When to be commenced and finished; supplemental --	37	2102
Notice of time and place Assessor will attend to assess taxes	37	2103
Duty of tax payer to attend appointments	38	2104
When assessment made on information	40	2110
When assessment of receipts made on information --	43	2116
Assessments made on information after Feb 1,	44	2117
Of mineral and timber; when assessed separately from land	40	2112

ASSESSMENTS—*Continued.*

	PAGE.	SEC. CODE.
Of property and receipts of telephone (excepting long distance) companies .....	42	2115
To owner unknown; how made.....	44	2118
Of escaped taxes .....	45	2119
Blank lists; form and contents of.....	45	2120
Blank lists; form and contents of.....	138	2349
Book of assessments .....	47	2126
Book of, to be examined by County Commis- sioners -- -- .....	55	2147
Correction of errors in assessments .....	56	2148
Appeal to Circuit Court .....	56	2148
Of escaped taxes reported to Commissioners' Court -- -- .....	59	2151
In making assessments, laws to be liberally construed -- -- .....	60	2152
When collector to make assessment.....	77	2195

## ASSESSOR—

Election -- -- .....	34	2094
Bonds -- -- .....	34	2095
Oath -- -- .....	34	2096
Commissions -- -- .....	35	2097
Commissions not allowed .....	35	2098
Fees -- -- .....	36	2099
Deputies, liability for acts of.....	36	2100
Assessment blanks -- .....	36	2101
Assessment of taxes; when and how made....	37	2102
Appointments of -- .....	37	2103
Tax payer to render list under oath.....	38	2104
Oath administered by Assessor or his deputy..	38	2105
To interrogate tax payer as to property.....	38	2106
Makes demand of tax payers failing to attend appointments -- .....	39	2107
When sworn list may be sent in by another....	40	2109
Must require of every tax payer full statement	39	2108
Shall make assessment on information; when..	40	2110
Ascertain and fix value of items returned, and amend assessment lists .....	40	2111
How values are to be estimated.....	40	2112

ASSESSOR—*Continued.*

	PAGE.	SEC. CODE.
When mineral and timber interests to be separately assessed --	40	2112
How real estate to be described	40	2113
By whom property shall be listed	42	2114
Return by telephone companies, except long distance --	42	2115
Shall make assessments on information of receipts --	43	2116
Shall assess property of delinquents	44	2117
Duties of, when owner unknown	44	2118
Shall assess escaped taxes	45	2119
Duties in making out assessment lists	45	2120
Lists and books of assessments to be delivered to County Commissioners --	46	2121
Lists and books of assessment to be delivered to Judge of Probate --	47	2123
Assessment books, contents	47	2122
Shall forward receipt for assessment books to the Auditor --	47	2124
Duty when tax payer about to leave county	47	2125
Duties relating to assessment book	47	2126
Duties relating to land book	48	2127
Land book, form of, and entries to be made	48	2128
Lands to be listed each year	48	2129
When land book to be delivered to Judge of Probate --	48	2130
To have issued to him receipt for land book	49	2131
Compensation for making land book	49	2132
Duties of, in making assessment of stock of goods, wares and merchandise (paragraph 4)	18	2082
Duties of, in assessing shares of bank stock, (paragraph 8) --	23	2082
Duties of, in assessing real estate of banks	23	2082
Duties of, in assessing shares of stock in corporations --	25	2082
Duties of, relating to property of railroad companies --	53	2142
Duties of, relating to property of telegraph and long distance telephone companies	53	2143
Real and personal properties of water companies --	26	2082

ASSESSOR—*Continued.*

	PAGE.	SEC. CODE.
Investment in bonds.....	27	2082
Railroad bids, etc., .....	27	2082
Dividends -- -- .....	27	2082
Property not otherwise specified.....	27	2082
Duties as to property, not required to be re- turned to Auditor .....	55	2145
Arrangement of lists and book for Commission- ers' Court -- .....	55	2147
Correction of errors by Commissioners' Court..	56	2148
Duties relating to trials by Commissioners' Court -- .....	59	2150
Shall report assessment of escaped taxes.....	59	2151
Power of court to compel Assessor to produce books and papers .....	60	2154
Duties after book of assessment is corrected....	61	2156
Notified by Collector of assessments of escaped taxes -- -- .....	77	2195
Forbidden to be interested in purchase at tax sale -- -- .....	112	2290
Duties relating to assessing lands bid in by state	115	2299
Liability of, for negligence .....	117	2302
Liability of, for negligence .....	118	2304
Duties relating to real estate redeemed.....	127	2321
Duties relating to lands sold by State.....	129	2326
Duties relating to lands erroneously sold.....	132	2321
Assessment lists, form and printing of.....	138	2549
Form of questions for use of Assessor.....	138	2350
Copies of papers, records, etc., receivable as evi- dence against .....	141	2358
Authority to purchase books and stationery....	141	2359
Penalty for failure to administer oath to tax payer -- -- .....	197	7486
Required to co-operate with Tax Commission- ers -- .....	96	2246
Duty as to supplemental assessment by Tax Commissioner -- .....	97	2248
Fee for plat book .....	45	2120
Fee for making land book.....	49	2152
Fees after redemption of lands bid in by state	127	2321

## ATTORNEY-GENERAL—

	PAGE.	SEC.	CODE.
Shall be present at every meeting of State Board of Assessment -- -----	52		2139
Decides when board is equally divided-----	52		2140
Must furnish Auditor with suitable forms-----	115		2298
When Auditor in doubt shall take opinion of--	137		2348

## AUDITOR, STATE—

Sworn report to be made by telegraph company	28		2085
Sworn report to be made by long distance tele- phone companies -- -----	28		2085
Sworn report to be made by express companies	29		2086
County Assessor's bond to be filed in office of--	34		2095
Assessor's receipt for commissions to be for- warded to by Collector-----	35		2097
Assessor's receipt for assessment book to be for- warded to -- -----	47		2124
Duties of, relating to return by railroad com- panies -- -- -----	50		2133
Duties, if return is not made-----	50		2134
Member of State Board of Assessment-----	50		2135
President pro tem in absence of Governor----	50		2135
To notify Assessors of assessment of railroad company's property -- -----	53		2142
Duties relating to telegraph and long distance telephone companies -- -----	53		2143
Report of, to State Board; assessment and pro- ceedings -- -- -----	54		2144
Forms of oath and circular letter to be sent an- nually to chairman of Board of Revenue or Commissioners' Court -- -----	58		2149
Abstract book of assessment must be for- warded to -- -----	61		2157
Duties relating to bond of Tax Collector-----	63		2161
Certified list by Commissioners' Court of insol- vencies, errors and taxes in litigation-----	73		2186
New account against Collector to be stated----	74		2187
Monthly report by Collector of insolvent taxes--	75		2189
Collector's final report; duties relating thereto	75		2190



AUDITOR—*Continued.*

	PAGE.	SEC. CODE.
Collector shall forward receipt for monthly report to the Auditor .....	78	2200
Monthly report to Auditor, of officer receiving Collector's report ..	79	2201
Collector must account to Auditor in January and in April .....	79	2202
Collector must make final settlement; when----	80	2203
Collector must deliver certificates of purchase of lands for State to the Auditor.....	111	2286
To furnish Collectors with poll tax receipts....	15	2075
Shall audit accounts for advertising tax sale..		2287
Forms to be furnished Auditor by Attorney General -- -- .....	115	2298
Duties of, relating to lands bid in for state....	115	2299
Proceedings to recover possession of real estate bid in for the State at tax sale.....	117	2303
When application to redeem must be submitted to Auditor -- .....	124	2317
When certificate releasing all claims to lands acquired by State, to be given by Auditor....	125	2318
Land book to be prepared by.....	128	2323
When lands not redeemed may be sold.....	128	2323
Duty to mail notice to owner of application being made to purchase land.....	128	2324
Deed to purchaser of land to be executed by....	129	2325
To certify sale to Judge of Probate.....	129	2326
Shall draw warrant for amount due county, etc.	130	2327
When sale by State cancelled and purchase money refunded -- .....	130	2329
Money paid to county, to be refunded to State..	130	2330
When tax sale to private purchaser, cancelled and money refunded .....	131	2331
Duty, when tax sale of land bid in for the State was erroneous -- .....	133	2332
Shall have authority to appoint agents in each county to look after land bid in by State....	133	2333
Also, some one in each county to investigate sales for taxes or lands bid in for State....	134	2335
Duties, as to enforcement of revenue laws....	137	2348
Notice to former owner to redeem.....	134	2339

AUDITOR—*Continued.*

	PAGE.	SEC.	CODE.
To furnish Assessor with forms for assessment list -- -- -----	138		2349
To furnish Judges of Probate blanks for abstracts -- -- -----	120		2349
To furnish Assessors with printed form of questions -- -- -----	138		2350
Revenue pamphlet to be printed, to whom copies furnished -----	139		2351
Duties relating to suits for recovery of taxes--	139		2352
Authority to settle Collector's commissioners--	140		2353
Authority to refund overpayments-----	140		2354
Papers in office shall be received as evidence---	141		2358
To furnish Judge of Probate with blank licenses	190		2405
Shall report Judges of Probate to Governor for failing to comply with license law-----	191		2408
Shall furnish copies of license reports to Solicitors -- -- -----	192		2409
Refunding of license money -----	193		2412
Bonds of County Tax Commissioners to be filed with -- -- -----	95		2243
Duties relating to assessment and revenue bills	137		2348
State Tax Commissioners to work under the supervision of -- -----		Act 5	
Abstract of Tax Commissioner's assessments--	177	Act 11	

## BANKS—

Duties of President and Cashier in making tax returns -- -- -----	23	2082
To account to Auditor for poll tax-----	15	2077
Time when poll tax receipt may be given-----	16	2078
Alphabetical list to be filed-----	16	2079
Compensation for collector for making lists---	16	2080

## BOARDS OF REVENUE—

(See County Commissioners.)

## COLLECTOR—

Election -- -- -----	63	2160
Bond -- -- -----	63	2161

COLLECTOR—*Continued.*

	PAGE.	SEC. CODE.
Bond of a lien on property.....	63	2162
Oath -- -- .....	64	2163
Deputies -- .....	65	2168
Appointments -- .....	66	2169
Failure of Collector to attend.....	66	2170
Demand upon delinquents .....	66	2171
When taxes become delinquent .....	67	2172
Interest on taxes when delinquent.....	67	2173
Receipt, form of .....	67	2174
Entries on stub of receipt book.....	68	2174
Tax sales of personal property.....	68	2176
How proceeds of sale shall be applied.....	69	2177
No property exempt from sale of taxes.....	70	2178
Collection by garnishment .....	70	2179
Sale of shares in private corporations.....	71	2182
Sale of real estate for taxes.....	72	2183
Report to County Commissioners, errors, etc....	73	2184
Credits allowed Collector .....	73	2185
New accounts -- .....	71	2487
Shall receipt for insolvent lists.....	74	2188
Monthly reports of collections of insolvent taxes	75	2189
Final report on insolvent collections.....	75	2190
Duties on retiring from office .....	75	2191
Duty when tax payer about to remove from the county -- -- .....	76	2192
When Collector liable .....	76	2193
Duty when tax payer has removed.....	76	2194
Duty as to escaped taxes.....	77	2195
Must report escaped taxes to Judge of Probate..	77	2196
Shall keep separate account of poll tax.....	78	2197
Monthly reports of poll tax collections.....	78	2198
Annual reports of poll tax collections.....	78	2199
Monthly reports of tax collections.....	78	2200
Reports in January and April.....	79	2202
Final settlements with Auditor.....	80	2203
Final settlements with County Treasurer.....	80	2204
Settlement by personal representative.....	80	2205
Special taxes, receipts for.....	81	2206
Special taxes, how kept and paid over.....	81	2207
Duties relating to land docket.....	103	2269

COLLECTOR—*Continued.*

	PAGE.	SEC.	CODE.
Duties relating to land docket.....	104		2270
Serving notices -- .....	105		2272
Publication of notice to non-resident.....	105		2273
Publication of notice to owner unknown.....	106		2274
When notice not served in time for trial term..	107		2276
Duty to attend court.....	107		2277
Notice of sale of real estate.....	108		2279
Forms of advertisements.....	109	2280-	
Time and place of sale.....	109		2281
How real estate to be sold.....	110		2282
How real estate to be sold.....	110		2283
Certificate to purchaser .....	110		2285
Duty when land bid in for State.....	111		2286
Forbidden to be interested in purchase.....	112		2290
Disposition of money collected on judgment....	113		2292
Disposition of excess.....	113		2294
Liability for negligence.....	117		2302
Liability for negligence.....	118		2304
To be directed by Auditor .....	137		2348
Records, evidence in suits against.....	141		2358
Stationery for.....	141		2559
Duty to pay Assessor .....	35		2097
Penalty for failure to perform duty.....	193		6836
Required to co-operate with Tax Commissioners	96		2246
Collection on assessments by Tax Commissioner	102		2267
Fees to Tax Commissioners paid by.....	102		2266
Commissions -- .....	64		2164
Mileage -- .....	64		2165
Cost of transmitting collections .....	64		2166
Fees -- .....	65		2167
Fees in garnishment proceedings.....	71		2182
Allowance by Auditor of commissions, etc....	79		2202
Fees and costs in land sales .....	113		2293
Proceedings in garnishment .....	71		2180
Presiding officer to certify list to Auditor in 10 days -- .....	73		2186
Decree of sale.....	107		2278
Amount paid by State.....	111		2287
Fees and costs in land sales.....	127		2321
Errors corrected by Auditor.....	140		2353

## CONFEDERATE SOLDIERS—

	PAGE.	SEC.	CODE.
Special tax for relief of needy.....	16		2082

## CORPORATIONS—

Duties in making return.....	25		2082
Shares in subject to levy and sale.....	71		2182

## COUNTIES—

Payment to counties when land bid in by State have been sold .....	130		2327
Payment to State by county, when sale cancelled .....	131		2330
Levying county tax .....	60		2155
County license -- .....	171		2362
Have a lien on property for taxes .....	33		2093
To pay for tax blanks.....	36		2101
County maps -- .....	43-44		

COUNTY COMMISSIONERS—OR BOARDS OF  
REVENUE—

Lists and books of assessment delivered to....	46		2221
Payment of Assessor for plat book.....	45		2120
When can remit penalties for non-assessment..	44		2117
Duties relating to exemption of cotton factories..	10		2063
Regular terms of .....	55		2146
Duties at June term .....	55		2147
Hearing objections -- .....	56		2148
Oath -- .....	58		2149
Reports to -- .....	59		2151
Construction of tax law .....	60		2152
Notice to Tax Collector .....	60		2153
May require books and papers.....	60		2154
May require stub books and papers .....	68		2175
Levy of county tax .....	60		2155
Warrant of Collector .....	61		2156
Application of proceeds of sales.....	69		2177
Errors and insolvencies .....	73		2184
Credits allowed Collector.....	73		2185
Must certify list to Auditor.....	73		2186
May contract for assessment maps or plats....	46		2120



## COUNTY COMMISSIONERS—OR BOARDS OF REVENUE—*Continued.*

	PAGE.	SEC.	CODE.
Amount to be paid .....	46		2120
New accounts against Collector.....	74		2187
Insolvent lists to Collector .....	74		2188
Report by Collector .....	75		2190
Report by Collector .....	75		2191
Pass on assessment of escaped taxes.....	77		2195
Forbidden to be interested in purchase.....	112		2290
Excess of purchase money .....	113		2294
Excess of purchase money .....	114		2295
Assessment of lands bid in by State.....	115		2299
Purchase money for erroneous sales refunded to State .. .....	131		2330
Purchase money for erroneous sales refunded to purchaser .. ..	132		2331
Refunding of license money .....	193		2412
Rights of tax payers before.....	176	Act 11	
Duties of tax payers before.....	182	Act 18	

## COUNTY TREASURER—

Application of proceeds of tax sale.....	69	2177
Monthly reports of Collector to.....	75	2189
Monthly reports of Collector to.....	78	2200
Monthly report by .....	79	2201
Final settlement of Collector with.....	80	2204
Dutes as to special taxes.....	81	2208
Disposition of excess of purchase money.....	113	2294
Disposition of excess purchase money.....	114	2295
Notice of redemption to.....	125	2318
Redemption money .....	126	2319
Redemption money .....	126	2320
Purchase money for erroneous sales.....	131	2330
Purchase money for erroneous sales.....	132	2331
Refunding of license tax.....	142	2361
Payment to Judge of Probate.....	191	2408

## DEFINITION—

Meaning of words.....	7	2060
-----------------------	---	------

## DISPENSARIES—

	PAGE.	SEC.	CODE.
Amount of license to be paid by-----	152		2361

## EMBEZZLEMENT—

(See Penal Sections.)

## ERRONEOUS TAX SALES—

(See Tax Sales.)

(See Lands.)

## EXEMPTIONS—

From taxation -----	8-14	2061-2073
From licenses -----	143	2361
From poll tax-----	8	2061

## FRANCHISE TAX OF—

Common carriers -----	171-185	2364
		to
		2390

## FRANCHISE TAX ON—

Foreign corporations -----	185-188	2391
		to
		2400

## GARNISHMENT—

Collection by -----	70	2179
Proceedings -----	71	2180

## GOVERNOR—

Member, president State Board of Assessment..	50	2135
When shall require report from probate judge..	61	2157
When shall direct impeachment proceedings		
against Probate Judge-----	191	2408
Duties relating to erroneous tax sales-----	131	2329
Duties relating to forms of licenses-----	140	2405
Duties relating to lands bid in by the State	116-117	Act 2, 3, 4

GOVERNOR—*Continued.*

	PAGE.	SEC. CODE.
Duties relating to tax commissioner.....	182	Act 20
Duties relating to tax commissioner.....	172	Act 1, 2
When suit brought with consent of.....	180	Act 16
When counsel may be employed by consent of..	181	Act 17

## GRAND JURY—

Copies of license reports; duty of solicitors....	192	2409
Copies of license reports; duty of solicitors....	192	2410
Special charge to.....	197	7486

## IMPEACHMENT—

Who may be impeached.....	194	7099
---------------------------	-----	------

## JUDGE OF PROBATE—

Bond in duplicate of assessor filed with.....	34	2095
Oath of assessor filed and recorded in office of	34	2096
Shall embrace supplemental assessment in his abstracts .....	37	2102
Tax books and lists in office of.....	47	2123
Duties of, relating to assessment books.....	47	2124
When land book to be delivered to.....	48	2130
Duties relating to land books.....	49	2131
Shall deliver tax books and papers to county commissioners .....	55	2147
To make abstracts for Auditor and Collector..	61	2157
Duties relating to abstract book.....	62	2158
Duties relating to Tax Collector's bond.....	63	2161
Duties relating to Tax Collector's oath.....	64	2163
Duties relating to tax stub books.....	68	2175
Duties relating to proceeds of tax sale.....	69	2177
Duties relating to shares of stock.....	71	2182
Duties relating to bill for taxes.....	76	2192
Duties relating to bill for taxes.....	76	2194
Duties relating to abstract of escaped taxes....	77	2196
Duties as to Collector's monthly reports.....	79	2201
Duties as to sale of lands for taxes.....	103	2268
Duties as to sale of lands for taxes.....	110	2284
Duties as to land docket.....	104	2270

JUDGE OF PROBATE—*Continued.*

	PAGE.	SEC.	CODE.
Duties as to sending notice to delinquent.....	104		2271
Duties when owner unknown.....	106		2274
Duties as to trials for taxes.....	107		2277
Duties as to decree of sale.....	107		2278
Duties as to advertisements.....	109		2280
Shall make certificate of purchase to State....	111		2286
Forbidden to be interested in purchase.....	112		2290
Appeal from decree of.....	112		2291
Fees for notices and decree.....	113		2293
Must execute deed to purchaser.....	114		2296
Deed to be acknowledged by.....	115		2297
Duties as to lands bid in by State.....	115		2299
Liability for negligence.....	118		2304
Duties as to redemption of lands.....	123		2314
Duties as to redemption of lands.....	124		2316
Duties as to redemption of lands.....	124		2317
Duties as to certificate of redemption.....	125		2318
Where money deposited.....	126		2319
Commissions on lands redeemed.....	126		2320
To notify Assessor and Collector.....	127		2321
When to notify owner of his right to redeem..	128		2324
Sale by Auditor certified to.....	129		2326
When lands bid in by State have been sold....	129		2326
When purchase money paid county to be re- funded .....	131		2330
When purchase money paid county to be re- funded .....	132		2331
When land sale erroneous.....	133		2332
Blank forms for abstracts.....	138		2349
Records, evidence in suits against.....	141		2358
Duties relating to licenses.....	189		2402
Duties relating to licenses.....	190		2406
Duties relating to licenses.....	190		2407
Monthly payment by.....	191		2408
Monthly reports by.....	191		2408
To furnish Solicitors with lists of licenses issued	192		2409
When license money to be refunded.....	193		2412
Penalty for willful neglect of duty.....	195		7457
Required to co-operate with Tax Commissioners	174	Act 8	
Fees payable to Tax Commissioners.....	179	Act 13	

JUDGE OF PROBATE—*Continued.*

	PAGE.	SEC. CODE.
Trials of cases against delinquents-----	179	Act 14
Mortgages, tax on, for record-----	18	Act 7

## LAND BOOK—

To be prepared by Assessor-----	48	2127
Form of book and entries to be made-----	48	2128
Lands to be listed each year-----	48	2129
When to be delivered to Judge of Probate-----	48	2130
Judge of Probate to give receipts for-----	49	2131
Compensation of Assessor for making-----	49	2132
Docket of lands on which taxes not paid-----	103	2269
Preparation of; time to be delivered-----	104	2270
Docket must show by whom returns were made	105	2272

## LANDS—

(See *Redemption of Lands; See Tax Sales.*)

## LICENSES—

(See *Articles XVIII and XXI, 142 171*)

For county -----	171	2362
When payable -----	189	2402
For dispensaries -----	152	2361
Unlawful to engage in certain business without	188	2401
Payment for, issue and contents of-----	189	2402
When license expires-----	189	2403
Retail liquor dealers to keep license posted-----	190	2404
Form of -----	190	2405
Stubs of -----	190	2406
Records of; annual report of Judge of Probate.	190	2407
Copies of reports to be furnished Solicitors by		
Auditor -----	192	2409
When license money refunded-----	193	2411
Application to have license money refunded----	193	2412
Who has privilege of peddling without license	164	2361
Proceeding against person failing to pay license	174	Act 7



## LIENS—

	PAGE.	SEC. CODE.
Cannot be discharged until taxes paid-----	56	2148
Bond a lien on property of sureties-----	63	2162
Taxes a preferred lien-----	140	2355
Officers making legal sales must first pay taxes	141	2356

## LIGHTNING RODS—

Penalty for selling without license-----	198	7713
Maps of counties -----	43	

## MERCANTILE AGENCIES—

Penalty for engaging in business without license -----	198	7714
---	-----	------

## MORTGAGES—

New counties, formation of; unpaid taxes in--	86	
Tax on, for record-----	18	Act 7

## OVERPAYMENTS—

Auditor will draw warrants for-----	140	2354
-------------------------------------	-----	------

## PENALTIES—

(See Penal Sections, pp. 167-172.)

Against railroad companies-----	51	2137
Against telegraph companies-----	28	2085
Against telegraph companies-----	54	2144
Against long distance telephone companies----	54	2144
Against telephone companies-----	42	2115
Against express companies-----	29	2086
Against Tax Assessors, for acts of deputy----	36	2100
Against Tax Assessor, for failure to fill appoint- ments -----	37	2103
Against Tax Collector, for acts of deputy-----	65	2168
Against Tax Collector for failing to fill appoint- ments -----	66	2170
Against Tax Collector, error in sale-----	72	2183
Against Tax Collector, when liable for tax-----	76	2194

PENALTIES—*Continued.*

	PAGE.	SEC. CODE.
Against Probate Judge not completing abstract	62	2158
Against Probate Judge, not paying over redemption money -----	126	2320
Against Probate Judge, willful neglect of duty--	195	7457
Against County Commissioners, failure to comply with oath-----	57	Act 14
Against officers, for being interested in purchase of tax sale-----	112	2290
Against officers, for error in land sales-----	117	2301
Against officers, for errors in land sales-----	117	2302
Against officers, for failing to co-operate with Tax Commissioners -----	175	Act 8
Against officers, for failing to co-operate with Tax Commissioners -----	180	Act 16
Against officers, for failing to answer questions asked by -----	178	Act 12
Against officers, failing to pay over money collected -----	142	2360
Against tax payer, for non-assessment-----	44	2117
Against tax payer, for false return-----	197	7545
Against tax payer, for subscribing to false return -----	40	2109
Against tax payer for not making return of gross receipts -----	43	2116
Against tax payer, taking appeal for delay----	56	2148
Against tax payer, when appeal is decided against him -----	112	2291
Against tax payer, failing to answer questions--	77	2195
Against owner unknown, for non-assessment--	44	2118
Against retail liquor dealer, for not posting his license -----	190	2404
Against any person engaged in business without taking out license -----	198	7712

## PRIVILEGE TAX—

Telegraph companies, pay to State Treasurer--	23	2085
Express companies, pay to State Treasurer---	29	2086
Sleeping car companies, pay to State Treasurer	31	2087
Building and loan associations, pay to State Treasurer -----	31	2088

## POLL TAX—

	PAGE.	SEC. CODE.
Amount of, and how applied, and matter relating to .....	14-16	2074-80
Separate account of amount paid by each race..	78	2197
Monthly reports of collections.....	78	2198
Annual reports of collections.....	78	2199
Forms of poll tax receipts and blanks.....	78	2199

## RAILROAD COMPANIES—

Returns to be made to Auditor.....	50	2133
Duty of Auditor if return is not made.....	50	2134
Return to be examined by State Board.....	51	2137
Penalty for not making return.....	51	2137
Valuation of property of.....	52	2141
Assessing property of.....	53	2142
Assessing property of.....	55	2145

## REDEMPTION OF LAND SOLD FOR TAXES—

(See Article XII, pp. 116-122.)

Persons entitled to redeem.....	122	2313
Modes and terms.....	123	2314
When part may be redeemed.....	123	2315
Application under oath.....	124	2316
Application to redeem part, be submitted to the Auditor .....	124	2317
Certificate of redemption.....	125	2318
Redemption money; disposition of.....	126	2319
Redemption must be promptly paid over.....	126	2320
Assessor and Collector to be notified of.....	127	2321
Purchaser not liable for rent; exception.....	127	2322
Lands not redeemed, subject to sale by Auditor	128	2323
When former owner to be notified of application to purchase .....	128	2324
Auditor to execute deed to purchaser.....	129	2325
Auditor to certify sale to Judge of Probate, and description to Assessor.....	129	2326
How county taxes, fees, etc., distributed.....	130	2327
Effect of failure to redeem.....	130	2328

## RIGHTS AND REMEDIES OF PURCHASER OF LAND AT TAX SALES—

PAGE. SEC. CODE.

*(See Article XI, pp. 103-116.)*

When sale invalid.....	116	2300
Liability of officers when land wrongfully sold	117	2301
Liability of Assessor and Collector; negligence	117	2302
Action of ejectment by purchaser.....	117	2303
Liability of officers for failure of duty.....	118	2304
When plaintiff recovers purchase money.....	119	2305
When defendant entitled to judgment.....	119	2306
Tender by party claiming adversely.....	120	2307
Statement of claims to be made in pleadings....	120	2308
Effect of redemption tender.....	121	2309
Books and records as evidence.....	121	2310
Statute of limitations as to recovery of lands sold for taxes.....	121	2311

## SALES —

*(See Tax Sales.)*

## SECRETARY OF STATE—

Member of State Board of Assessment.....	50	2135
--	----	------

## SHERIFF—

Required to co-operate with Tax Commissioners	174	Act 8
---	-----	-------

## SLEEPING CAR COMPANIES—

Property of, to be assessed.....	55	2145
----------------------------------	----	------

## SOLICITORS—

Shall represent the State on appeals from decree of tax sale.....	112	2291
License reports to be laid before Grand Juries by	192	2409
License reports to be laid before Grand Juries by	192	2410
Co-operation with Tax Commissioners.....	180	Act 15

## SPECIAL TAXES—

*(See Taxes and Taxation.)*

What receipts for must specify.....	81	2206
How accounts for, kept and paid over.....	81	2207
How kept and disbursed by Treasurer.....	81	2208
How account of, closed by Treasurer.....	81	2209
Annual school tax.....	15	a
Composed of .....	50	2217
For relief of needy Confederate soldiers.....	15	b

## STATE BOARD OF ASSESSMENT—

*(See Article VI, pp. 50-55.)*

Composed of .....	50	2135
Meetings of .....	51	2133
Shall examine returns.....	51	2138
Attorney General to attend every meeting.....	52	2139
Record of proceedings.....	52	2140
How valuation shall be made.....	52	2141
Assessments of telegraph and long distance telephone companies .....	53	2143

## TAX ASSESSOR—

*(See Assessor.)*

## TAXATION AND TAXES—

*(See Article III, pp. 14-34.)*

Property and persons exempt.....	8-16	2061-73
Annual school tax.....	16	a
For relief of needy Confederate soldiers and sailors, and their widows.....	15	b
Rate of taxation.....	16	2081
Interest on taxes.....	67	2173
Subjects of taxation.....	16-27	2082-84
Privilege tax on telegraph and long distance telephone companies .....	28	2085
Privilege tax on express companies.....	29	2086
Privilege tax on sleeping car companies.....	31	2087
Privilege tax on building and loan associations	31	2088



TAXATION AND TAXES—*Continued.*

	PAGE.	SEC.	CODE.
When taxes due and delinquent.....	33		2091
When property taxable, brought into State after the first of October.....	33		2092
Lien of the State and county for taxes.....	33		2093
Delinquent .....	67		2173
No property exempt from sale for taxes.....	70		2178
Taxes may be collected by garnishment.....	70		2179
Shares in private corporations may be sold for	71		2182
When real estate may be sold for taxes.....	72		2183
Special taxes; how kept and paid over.....	81		2207
Taxes a preferred lien in case of assignments	140		2355
Officer selling property must pay taxes on same	141		2356
Liability of agent for taxes on receipts.....	141		2357

## TAX COLLECTOR—

(See *Collector.*)

## TAX COMMISSIONERS: STATE AND COUNTY—

(Article X, pp. 82-102.)

Creation, powers and duties of commission....	82-102	2210
		to
		2267

## TAX PAYER—

Duty to attend appointments and make returns	38	2104
Oath administered to by Assessor or deputy..	38	2105
To be questioned under oath as to items and details of property .....	38	2106
Demand on those failing to attend appointments	39	2107
Full statement required of.....	39	2108
When sworn list may be sent in.....	40	2109
Subscribing to false list is perjury.....	40	2109
Subscribing to false list is perjury.....	199	7716
Entitled to certified copy of list.....	40	2110
Penalty for not making return.....	44	2117
Causes for which penalty can be remitted.....	44	2117
Causes for which penalty can be remitted.....	44	2118
Proceedings when objects to assessments.....	56	2148

TAX PAYER—*Continued.*

	PAGE.	SEC.	CODE.
Duty to meet collector and pay taxes-----	67		2172
Receipt to -----	67		2174
Appeal -----	112		2291
Right to have assessments made by County Commissioners -----	176	Act 11	

## TAX SALES—

(See Collector; see Judge of Probate; see Article X.)

Description of land, when owner unknown----	44		2118
Of personal property; no redemption-----	68		2176
No property exempt from sale-----	70		2176
When real property may be sold for taxes----	72		2183
Order of sale of real estate-----	103		2268
Decree of sale-----	107		2278
Sales under decree-----	108		2279
Advertisement of -----	109		2280
Time and place of sale-----	109		2281
Quantity to be sold -----	110		2282
When land bid in for State-----	110		2284
Certificate to purchaser-----	110		2285
Certificate to State-----	111		2286
Advertisements, payments for-----	111		2287
Advertisements, payments for-----	111		2288
Certificate of purchase assignable-----	112		2289
Officers forbidden to purchase at-----	112		2290
Appeal from decree of sale-----	112		2291
Disposition of money received-----	113		2292
Disposition of money received-----	113		2294
Fees and costs-----	113		2293
Deed to purchaser -----	114		2296
When sale invalid, lien passes-----	116		2300
Liability of officers for illegal selling of land--	117		2301
Liability of officers for failure of title-----	117		2302
Purchaser may bring ejectment suit-----	117		2303
Liability of officers when suit defeated-----	118		2304
When plaintiff recovers money through cost in suit -----	119		2305
When defendant entitled to judgment-----	119		2306

TAX SALES—*Continued.*

	PAGE.	SEC.	CODE.
Tended by party claiming adversely.....	120		2307
Compensation of person or firm to investigate sales.....	134		2336
Record of land bid in by State at tax sale.....	134		2337
Sale by State when not redeemed.....	134		2338
Notice to former owners to redeem.....	134		2339
Statements made in pleadings.....	120		2308
Effect of redemption or tender.....	121		2309
Books and records evidence.....	121		2310
Statute of limitations as to recovery.....	121		2311
When sale to purchaser cancelled.....	132		2331
Erroneous sales; how corrected.....	116	Act	1

## TELEGRAPH COMPANIES—

Privilege tax on.....	28		2085
Officer of, must make annual reports.....	53		2143
State Board to make assessment.....	54		2144
Return to Assessor.....	55		2145

## TELEPHONE COMPANIES—

(*Long Distance, see Telegraph Companies.*)

Return to Assessor .....	42		2115
--------------------------	----	--	------

## TREASURER: STATE—

Privilege tax to be paid to.....	28		2085
Privilege tax to be paid to.....	31		2087
Member of State Board of Assessment.....	50		2135

## VALUES—

Rule as to, in assessing property.....	60		2152
--	----	--	------









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